A COMPLETE

SYSTEM OF PLEADING:

COMPREHENDING THE MOST

APPROVED PRECEDENTS and FORMS of PRACTICE;

CONSISTING OF

SUCH AS HAVE NEVER BEFORE BEEN PUBLISHED:

WITH AN

INDEX to the PRINCIPAL WORK,

INCORPORATING AND MAKING IT A CONTINUATION OF

TOWNSHEND's and CORNWALL's TABLES,

TO THE PRESENT TIME;

AS WELL AS AN

INDEX of REFERENCE to all the ANCIENT and MODERN ENTRIES extant.

By JOHN WENTWORTH, Esq.

OF THE INNER TEMPLE, BARRISTER AT LAW.

——————Ne quæ Studio dispôsta fideli
Intellecta priusquam sint contempta relinquas. LUCRET.

VOL. X.

CONTAINING

ERROR—EJECTMENT—QUARE IMPEDIT—REAL ACTIONS—PRACTICAL FORMS—AND GENERAL INDEX.

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CRANE COURT, FLEET-STREET,

FOR G. G. AND J. ROBINSON, PATERNOSTER-ROW.

1799.

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PH
MVSEVM
BRITANNICVM

THIS Tenth Volume comprehends and closes the different Heads of pleading and practice of which I originally ventured to give the outline, and it seems necessary to open a more explicit view of the contents of the whole by way of general Direction, to make them plain and useful to the Practitioner.

It will be sufficient to apprize the Student that I have entirely thrown out the old antiquated Heads farther than they are now in practical use, as ANNUITY, Proceedings in AUDITA QUERELA, and others (for it might seem by the Preface to my first Volume I meant to include the former Head, with other old Proceedings, which I since thought better not to do, to the exclusion of more useful matter); and that there is a slight *disarrangement* in this Volume, namely, in ERROR, which ought strictly to follow every other head. My reason for it is, that I had completed it after the *personal* Actions, before *mixed* and *real* actions; and it was convenient to me, to prevent stopping the press. Having then in the preceding nine Volumes disposed of *personal* Actions, and in this Volume Proceedings in ERROR; the MIXED Actions are EJECTMENT and QUARE IMPEDIT: in the former I give but few Forms, because of Mr. *Serjeant Runnington's* very excellent book on that head, containing most correct and

valuable Precedents; in the latter they are ſufficiently varied for all the common caſes that happen, with a moſt ample INDEX, after great labour and difficulty in the execution of it. Then follow REAL Actions, the INDEX, ſuch of my own Precedents, and the diſtribution of them in their order, will be found under the Head ACTIONS REAL *in the* GENERAL INDEX. The modern References follow their different Heads, and the more ancient would have ſwelled my Work to a greater extent than I at firſt propoſed to myſelf; or could I be perſuaded they can be found at this day of much uſe to the Profeſſion.

The PRACTICAL FORMS, or PARTES PLACITANDI (of the Record), is a part of the Work that I confeſs has been more troubleſome, as it is my anxious wiſh to give it a clearneſs, that the Student might not be at a loſs to find any *Form*, *Writ*, or *Part* of the Record, in *any* Action; and the Mode I have attempted will ſhew my ſolicitude in a circumſtance that at firſt almoſt deterred me from the attempt; but after conſideration I have led myſelf to believe will be highly favourable and auxiliary to my own Volumes. The Public are already in poſſeſſion of Mr. *Tidd's Practice of the Court of King's Bench*, and that it is his intention to give an *Appendix of Forms*, from the Commencement to the End of a Suit. The luminous Method of his Book immediately ſuggeſts the order in which the Forms and Parts of the Record ſtand, and may be eaſily given; but I was afraid to interfere with his work in a Plagariſm ſo palpable, eſpecially much indebted as I am for his free communications; and alſo in ſome ſort as an Encourager of this Undertaking, it determined me therefore to adopt the following Plan,

Plan, which I can venture with confidence to aſſure the Student he will find more and more eaſy, and juſtify my conjecture above, that the Gentleman's Book to which I allude may be made uſeful to my own.

Under the Head of PRACTICAL FORMS will be found all the Forms that may be reducible to ſmall diſtinct Heads, and among them the Forms, particularly of PARTES PLACITANDI in the INDEX to FORMS, alphabetically diſpoſed; ſo that by adverting to the *part*, ſuch as *Oyer*, *Retraxit*, *Ceſſet Executio* (I inſtance theſe becauſe they are Parts of the Record not connected), or any other, will be diſtinctly pointed out, with reference to the Page and the Part of Pleading. If, therefore, the Body of PRACTICAL FORMS are reſolvable into theſe Heads, and the *Partes Placitandi*, or *Forms*, are arranged ſo as to give inſtantaneous Reference to it, it will follow, that, conſidering the Forms in their *Commencement*, in the *intermediate*, and *final* Stage of a Suit, will conſiderably aſſiſt the Practitioner. This I have alſo attempted, and, to my own mind, find it clear of all objection or difficulty; yet with proper deference to an enlightened and learned Profeſſion.

In the Reference to the modern Books of Practice I have limited myſelf to *one* of the moſt uſeful of them *in the King's Bench*; for as all theſe Books are conſidered more for their *uſe* (in the hiſtory of running about to the different offices), than their *authority*, (unleſs it be the Practice of B. R. by Mr. *Tidd*, which may be called the Polar Star of the Practitioner in that Court), and the proceedings in the *two* courts vary ſo little, except

except thoſe to be met with in my own Precedents, I have not indexed them.

To conclude with one plain Direction in all inſtances throughout the Work:—The GENERAL INDEX contains the Leading Titles, ſuch as ABATEMENT, ACCOUNT, ASSUMPSIT, &c. and takes up ſuch as are by accident omitted in the Work, and directs to the Volume, in which will be found an Analyſis to each, with a copious Index to follow the Analyſis under figures within *crotchets* on the left hand. In all the *perſonal* and *mixed* Actions, (to be more particular) for Declarations *ſee* the GENERAL INDEX, referring to the Heads in the different Volumes; ſuch as are omitted will be found under the Head in the GENERAL INDEX. For Pleas, *ſee* that Head; in the GENERAL INDEX ſuch as happen to be omitted in the *Index to General Heads* will be found. So Replications, Rejoinders, &c. So far as to the Declarations, Pleas, &c.: But for a Judgment in any Action, *ſee* JUDGMENTS in that Action in the GENERAL INDEX—DEMURRERS, &c. —POSTEAS, &c.; and for a Form, *ſee* PRACTICAL FORMS, added to the General Index. For the *Writs*, *Forms* of beginning and ending a Declaration in Courts above, and inferior Courts, Forms of Pleas in Courts below, the *Partes Placitandi* of the Record, and other miſcellaneous Forms. ACTIONS REAL will be found only in the GENERAL INDEX under the Head of ACTIONS—the Heads that ariſe out of the Record, or, in moſt inſtances, the particular Parties to the Record—as *Bankrupts*—*Inſolvents*, and their Aſſignees—*Baron and Feme*—*Chancery*—*Clergymen*—*Corporations*—even to *Pleas*—*Replications*—*Rejoinders*—in their Alphabetical Order; and under REAL ACTIONS

in

in the General Index will be found DOWER, FORMEDON, PARTITION, &c.

To thoſe who miſtake multiplicity for confuſion, and do not readily diſcriminate the Forms, multitudinous as they are, to ſuch I repeat (who will be the only deſcription of readers forward to object) this Volume muſt be eminently uſeful. To name only the ſmall Head of Form of WRITS FINAL—the difference of the *Courts*—*Juriſdiction*—the *Parties* or the *Perſons* to whom *directed*—the difference of *Action* ſuddenly evinces the neceſſity of the Form; and yet to a curſory view, or rather negligent mind, they will appear to be too ſimilar. To the more diſcerning and diſtinguiſhed Members of a truly honorable and dignified Profeſſion I know full well how to leave the Propriety of my Remarks, and the merits (ſuch as they are) of my Work.

This confidence not ariſing only from the vain conjecture of an experimental Author, but confirmed by the *experience* of the thing itſelf through the tardy progreſs of ten heavy Volumes, induces me to announce thus early my intention to engraft the Doctrine and Principles of Pleading upon the Precedent and Form itſelf; to make in pleading the neceſſary averment, and, aſſuming the ſhape of a *legal Argument* (inverting a little the ordinary courſe of reaſoning from *particulars* to *generals*), to ſhew where the *Form* of the Action embodies the *principle*; and in the practical Forms to accompany it with the Hiſtory and Reaſon of the Practice.

This

This is by no means a new idea, though never before attempted. The late Lord Mansfield frequently intimated how useful to the Profession (by any Gentleman of ability and leisure, who had influence to procure the suitable materials) such a Work, tolerably well executed, would be; and how much he would have availed himself, even on the Bench, of such a Work (with the peculiar liberality that distinguished that great man). And the late Mr. Bearcroft strongly intimated to me in different conversations I had with him respecting this Work, if I was confident enough to undertake it, the Precedents would form a Ground Work to raise, or rather to perfect and make more complete my SYSTEM of PLEADING. I have that leisure and the influence to obtain the materials, and I only want the continuance of that Patronage under the Providence that has favoured the nine preceding Volumes, to make me confident in the accomplishment of my proposed Plan; the first Part of which has so far exceeded every expectation.

The future Part of this Work is now in Preparation for the Press, and I shall hope humbly, with the Encouragement I have reason to expect, to complete this SYSTEM OF PLEADING.

J. WENTWORTH,

INNER TEMPLE,
8th June, 1799.

ERROR.

(PROCEEDINGS IN.)

AFTERWARDS, to wit, on Friday next after fifteen days of Saint Martin, in the twenty-ninth year of the reign of our lord the now king; before our lord the king at Weſtminſter, the ſaid Owel Jones and Edward Philips the younger came by A. B. their attorney aforeſaid, and ſay, that in the ſaid record and proceſs, and alſo in giving of the ſaid judgment, there is manifeſt error in this, to wit, that by the record aforeſaid it appears that the ſaid judgment in form aforeſaid given was given for the ſaid R. R. againſt the ſaid O. J. and E. P. whereas by the law of the land judgment in the ſaid plea ought to have been given for the ſaid O. J. and E. P. againſt the ſaid R. R.; and they pray that the ſaid judgment for this error and others in the ſaid record and proceſs may be reverſed, annulled, and entirely ſet aſide, and that they the ſaid O. J. and E. P. may be reſtored to all that they have loſt by the ſaid judgment, and that the ſaid R. R. may rejoin to the ſaid errors, &c. Aſſignment of errors in ejectment.

T. BARROW.

And hereupon afterwards, to wit, on the ſaid Friday next after fifteen days of Saint Martin, in the ſaid twenty-ninth year of the reign of our ſaid lord the now king, the ſaid R. R. by his ſaid attorney, freely comes here into court, and ſays that there is no error either in the record and proceſs aforeſaid or in giving the judgment aforeſaid; and he prays that the ſaid court of our ſaid lord the king now here may proceed to examine as well the record and proceedings aforeſaid as the matters aforeſaid above for error aſſigned, and that the judgment aforeſaid in form aforeſaid given may be in all things affirmed; but becauſe the court of our lord the king now here is not yet adviſed what judgment to give of and concerning the premiſes, a day is therefore given to the parties aforeſaid to come before the ſaid lord the king in eight days of Saint Hilary, wheresoever, &c. to hear the judgment aforeſaid, for that the court of the ſaid lord the king now here is not yet adviſed thereof, &c. Joinder.

V. GIBBS.

Assignment of errors on a writ of false judgment from the sheriff's court at Somersetshire.

AFTERWARDS, on, &c. comes here the said J. T. L. by his said attorney, and says that the record and proceedings aforesaid, and the judgment thereon given as aforesaid, are vicious, erroneous, and defective in this, to wit, for that the declaration in the said record and proceedings mentioned and the matters therein contained are not sufficient in law to maintain the said E. E. in having his said action against the said J. T. L. in the following amongst other particulars, for that the said sum of money in the said first Count of the said declaration mentioned and therein alledged to have been had and received by the said J. T. L. to the use of the said E. E. is not there shewn or mentioned to have been had and received within the jurisdiction of the said county court held at J. aforesaid, which said matter should have been shewn in order to give the said court a cognizance thereof; and for that the said sum of money in the second Count of the said declaration mentioned and therein alledged to have been lent and advanced to the said J. T. L. is not there shewn or mentioned to be lent and advanced within the jurisdiction of the said county court, which said matters should have been shewn in order to give the said court a cognizance thereof; the same record and proceedings aforesaid and the judgment thereon given are also vicious, erroneous, and defective in this, for that by the record it appeareth that the judgment aforesaid in the plea aforesaid in form aforesaid given was given for the said E. E. against the said J. T. L. whereas by the laws of this realm judgment in the plea aforesaid ought to have been given for the said J. T. against the said E. E.; there is also error in this, to wit, for that in the said record and proceedings there are divers and very many miscontinuances and discontinuances in the plea and proceedings aforesaid, and the said record and proceedings and the said judgment are vicious, erroneous, and defective in this, for that the precept and *venire facias* therein mentioned ought by and in the record and proceedings aforesaid to have been continued from the said county court held the twenty-eighth day of March, A. D. 1787, to the twenty-fifth day of April then next following, whereas the same is not so continued, but wholly omitted, and nothing appears to have been done at the said county court held on the said twenty-eighth day of March 1787 either by continuance from the same or an appearance of the parties shewn to have been made thereat, or any day given at that court to the said parties; the same record and proceedings, and also the said judgment, are also vicious, erroneous, and defective in this, for that the several proceedings aforesaid are in the said record set out by way of recital, and not as done at the present time of holding the said courts in the said record and proceedings mentioned; the same are also vicious, erroneous, and defective in this, for that in the said judgment in the said plaint therein mentioned it is *commanded*, whereas it ought to have been *considered*, and not commanded by the court there that the said E. E. do recover of the said J. T. L. his damages, &c. therein mentioned; and so the said J. T. L. says, that the judgment aforesaid

aforesaid given in the said county court before the said sheriff is false and erroneous, and prays that the said judgment for the errors aforesaid and other errors in the said record and proceedings aforesaid being may be reversed, annulled, and held void, and that he the said J. T. L. may be restored to all things which he hath lost on occasion of the said judgment. S. LE BLANC.

Assignment of errors in a writ of false judgment in the common pleas at Lancaster.

AFTERWARDS, to wit, on the said first day of the next general session of assize here at L. holden, to wit, on, &c. in the nineteenth year of the reign of his present majesty king George the Third, here cometh the said J. S. by A. B. his attorney, and saith, that false judgment was given against him in the plea aforesaid in this, that upon the trial of the issue aforesaid to swear the jurors aforesaid or to take down minutes of evidence adduced upon such trial, and make a proper record or entry of the verdict of the jurors aforesaid upon the trial aforesaid, but that some other person not duly and legally qualified or authorized attended the said court to try the said cause, who set down and recorded the verdict, but neglected to take down the minutes of the evidence given in the said cause to the jurors aforesaid, as is common and usual upon trials in the said court, to the great and manifest injury of the said J. S. and also that the jurors aforesaid upon the trial of the issue aforesaid were not unanimous, neither did they assent or agree in giving the verdict aforesaid, as by law they ought to have done, but that certain of the jurors aforesaid did dissent and vary upon the verdict aforesaid at the time the same was given and recorded, to wit, at, &c. in, &c.: And the said J. S. says that false judgment was given against him in the plea aforesaid, and prays that the judgment aforesaid, being as well illegal as unjust and false, may be revoked, annulled, and held for nothing, and that he may be restored to all things which he hath lost on occasion of the said false judgment.

Assignment of errors in ejectment. Declaration insufficient. Error in giving judgment. No original *certiorari* to *custos rotulorum* prayed.

LISTER *against* ROE. } AFTERWARDS, to wit, on Tuesday from the day of Saint Martin, in fifteen days in this same term, before our lord the king at Westminster, comes the said George, by A. B. his attorney, and says, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law for the said R. to have his said action against the said G.; there is also error in this, to wit, that by the record aforesaid it appears that judgment in the plea aforesaid was given for the said Richard against the said George, when by the law of the land judgment in the said plea ought to have been given for the said George against the said Richard; there is also error in this, to wit, that by the record it appears that the said George was attached by writ of our lord the king to answer the said Richard in the plea aforesaid, yet there is not any original writ filed or remaining of record

in the cuſtody of the keeper of the writs and rolls of the court of our lord the king of the bench to warrant the proceedings aforeſaid in the record aforeſaid, therefore in that the ſaid judgment is manifeſtly erroneous; and thereupon the ſaid George prays a writ of our ſaid lord the king of *certiorari* to be directed to the keeper of the writ and rolls of the ſaid court of our lord the king of the bench to certify to our ſaid lord the king more fully the truth, and it is granted to him, &c.: And the ſaid George alſo prays that the judgment aforeſaid for the errors aforeſaid and other errors in the record and proceedings aforeſaid being may be reverſed, annulled, and held for nothing, and that he may be reſtored to all things which he hath loſt by occaſion of the ſaid judgment, and that the ſaid Richard may rejoin to the errors aforeſaid above aſſigned, &c.

Aſſignment of common errors in parliament on an information in the nature of a *quo warranto*.

AFTERWARDS, to wit, on Thurſday the twenty-ſeventh day of May, in the fifteenth year of the reign of our ſovereign lord George the Second, by the grace of God, of Great Britain, &c. before our lord the king and the peers of this realm, in the preſent parliament at Weſtminſter, in the county of Middleſex, aſſembled, comes the ſaid R. T. in his proper perſon, and ſays, that in the record and proceſs aforeſaid, as alſo in giving of the judgment aforeſaid in the ſame court of our ſaid lord the king before the king himſelf given there is manifeſt error in this, to wit, for that by the record aforeſaid it appears that the judgment aforeſaid in form aforeſaid given was given for the ſaid lord the king againſt the ſaid R. T. nevertheleſs by the law of the land the ſame judgment ought to have been given for the aforeſaid R. T. againſt the ſaid lord the king, therefore in this it is manifeſt error; wherefore the ſaid R. T. prays that the judgment aforeſaid for that and other errors in the record and proceſs aforeſaid may be reverſed, annulled, and ſet aſide, and that the ſaid R. T. may be reſtored to the ſaid office, liberty, privileges, and franchiſes by him claimed as aforeſaid, and that he may be diſmiſſed and diſcharged of and from the premiſes above charged upon him, and that the aforeſaid J. B. coroner and attorney of our ſaid lord the king in the ſaid court of our ſaid lord the king before the king himſelf, who for our ſaid lord the king in this behalf proſecuteth, may rejoin for our ſaid lord the king to the ſaid errors.

Aſſignment of errors in the exchequer chamber. The plaintiff in the original ſuit called by wrong chriſtian name. One of the defendants in original action died after interlocutory judgment, and before inquiry executed; and there is not any ſuggeſtion of his death, but judgment given againſt him and the other defendants.

AFTERWARDS, to wit, on the ſixth day of November, in this ſame term, before the juſtices of our lord the king of the bench at Weſtminſter, and the barons of the exchequer of our lord the king at Weſtminſter, of the degree of the coif in his ſaid majeſty's exchequer chamber at Weſtminſter aforeſaid, come the ſaid W. R. and T. H. by A. B. their attorney, and ſay, that in

the

the record and proceedings aforeſaid there is manifeſt error in this, to wit, for that by the record and proceedings aforeſaid it appears that the judgment aforeſaid in form aforeſaid given is given for one C. B. againſt the ſaid W. R. T. H. and W. H. whereas the ſaid judgment ought to have been given for the ſaid W. R. and T. H. againſt the ſaid C. B. therefore in this there is manifeſt error; there is alſo error in this, for that it appears by the record and proceedings aforeſaid that the judgment aforeſaid is given againſt the ſaid W. R. T. H. and W. H. when in fact the ſaid W. R. after the exhibiting the bill in this ſaid ſuit, and before the execution of the inquiſition of damages mentioned in the ſaid record and proceedings, to wit, on, &c. in the firſt year of the reign of our ſovereign lord the now king, at, &c. died, and therefore the ſaid W. R. ought to have been ſuggeſted on the record of the ſaid proceedings, and the inquiſition of damages ſhould only have been taken, and the final judgment aforeſaid been given againſt the ſaid W. H. and T. H. therefore in this there is manifeſt error, and this they are ready to verify; wherefore they pray that the judgment aforeſaid by reaſon of the aforeſaid errors and of other errors appearing in the record and proceedings aforeſaid be reverſed and wholly had for nought, and that the ſaid W. H. and T. H. be reſtored to all things which they have loſt on occaſion of the aforeſaid judgment, and that the ſaid C. B. may rejoin to the ſaid errors. *Drawn by* MR. WARREN.

Aſſignment of errors in B. R. of matter of fact and matter of law (to wit, that judgment was erroneous, and that infant appeared by attorney), for which defendant in error demurs.

AFTERWARDS, to wit, on, &c. in this ſame term, before our lord the king, at Weſtminſter, comes the ſaid I. A. by A. B. his attorney, and ſaith, that in the record and proceſs aforeſaid, and alſo in giving the judgment aforeſaid there is manifeſt error in this, to wit, for that by the record aforeſaid it appears that the judgment aforeſaid, in the plea aforeſaid given, was given for the ſaid R. G. againſt the ſaid I. A. whereas by the laws of the land of this kingdom judgment in the ſame plea ought to have been given for the ſaid I. A. againſt the ſaid R. G. therefore in that there is manifeſt error; there is alſo error in this, for that in and by the record aforeſaid it appears that the ſaid I. A. appeared by an attorney, whereas at the time of ſuch his appearance and at the time of obtaining and recovering the judgment aforeſaid, he the ſaid I. A. was an infant under the age of twenty-one years, to wit, of the age of twenty years and no more, therefore in that there is alſo manifeſt error; therefore the ſaid I. A. prays that the judgment aforeſaid for the errors aforeſaid in the record and proceedings aforeſaid may be reverſed, annulled, and held for nothing; and that he the ſaid I. A. may be reſtored to all things he hath loſt on occaſion of the ſaid judgment, and that the ſaid R. G. may rejoin to the ſaid errors, &c.

Demurrer.

And the ſaid R. G. ſaith, that the ſaid aſſignment of errors, in manner and form as the ſame is above made and ſet forth, is inſufficient in law to reverſe or annul the ſaid judgment, for that

the ſaid aſſignment of errors is double, and containing an aſſignment of errors in law and error in fact; wherefore the ſaid R. G. prays judgment, and that the ſaid judgment may be affirmed, &c.

W. H. ASHHURST.

The judgment upon this demurrer ſhould be *quod affirmetur*, vide 1. Stra. 439.

Joinder.

And the ſaid I. A. ſaith, that the ſaid aſſignment of errors by him above made is ſufficient in law to reverſe and annul the ſaid judgment, which ſaid aſſignment he the ſaid I. A. is ready to verify and prove, as the Court here ſhall direct; wherefore inaſmuch as the ſaid R. G. doth not anſwer or deny the ſame, he the ſaid I. A. as before prays that the judgment aforeſaid, for the errors in the record and proceedings aforeſaid, may be reverſed, annulled, and held for nothing; and that he the ſaid I. A. may be reſtored to all things which he hath loſt on occaſion of the ſaid judgment.

Aſſignment of errors, that the defendant's plea was not ſufficient to bar the plaintiffs of their action, but was defective, and no anſwer to the plaintiff's declaration, &c. &c. &c.

AND afterwards, to wit, on &c. in the twenty-fifth year of the reign of our ſovereign lord George the Third, by the grace of God, of Great Britain, &c. before the ſaid juſtices of the common bench and barons of the exchequer, come the ſaid London Aſſurance of houſes and goods from fire by the ſaid A. B. their attorney, and ſay, that in the record and proceedings aforeſaid, and alſo in giving the judgment aforeſaid there is manifeſt error in this, for that it appears by the ſaid record that the ſaid plea ſo pleaded by way of reply to the ſaid plea of the ſaid I. S. and W. C. laſtly above pleaded in bar, and the matters in the ſame contained, are ſufficient in law for the ſaid London Aſſurance to have and maintain their ſaid action thereof againſt the ſaid I. S. and W. C. yet the ſaid plea ſo pleaded by way of reply appears to have been adjudged inſufficient; there is alſo error in this, that it appears by the record aforeſaid that the ſaid plea ſo laſtly above pleaded in bar by the ſaid I. S. and W. C. and the matters therein contained, are not ſufficient in law to bar the ſaid London Aſſurance from having and maintaining their aforeſaid action againſt the ſaid I. S. and W. C.; but the ſaid plea is defective and inſufficient in this (amongſt other particulars), to wit, that the ſaid plea is no anſwer to the aforeſaid declaration of the ſaid London Aſſurance, nor is the damage or cauſe of action therein ſpecified in any manner denied or avoided thereby, but on the contrary the ſaid plea admits and confeſſes ſuch damage and cauſe of action without ſufficiently avoiding the ſame; and alſo for that no judgment is in the ſaid plea alledged as ſtated to have been obtained or given upon the ſaid verdict in the ſaid plea mentioned; and for that it is not averred or ſhewn in the ſaid plea that the ſaid London Aſſurance were or are in any manner privy to, or concerned or intereſted in the ſaid action or ſuit ſo alledged to have been brought by the ſaid I. S. as aforeſaid, or that the

ſaid

ſaid action was brought or commenced in truſt to or for the uſe or benefit of the ſaid London Aſſurance, or for any other or greater damages than what the ſaid I. S. had ſuſtained, over and beſides the ſaid ſum of ſixteen hundred pounds ſo paid to him by the ſaid London Aſſurance, nor is the ſaid jury who gave the ſaid verdict in the ſaid plea ſet forth, alledged to have given or aſſeſſed any other than ſuch extra damages beyond the ſaid ſixteen hundred pounds; but on the contrary it appears and ſtands admitted by the record aforeſaid, that the ſaid jury, by their ſaid verdict found, aſſeſſed and gave to the ſaid I. S. ſuch extra damages only; and alſo for that it is not averred or alledged in the ſaid plea that the ſaid I. S. hath reimburſed, paid over, or in any manner whatſoever accounted with the ſaid London Aſſurance for any part for which he obtained ſuch verdict as aforeſaid, or that he is liable or compellable ſo to do; but on the contrary it appears by the aforeſaid record and proceedings, that the ſaid verdict was obtained by the ſaid I. S. for his own proper benefit alone; and alſo for that the ſaid verdict, in the ſaid plea mentioned, is not ſhewn or alledged to have been, or to be recovered, nor is the ſame offered to be verified or proved by any record thereof; there is alſo error in this, to wit, that the ſaid judgment ſo given for the ſaid I. S. againſt the ſaid London Aſſurance when by the law of the land judgment ought to have been given in the plea aforeſaid for the ſaid London Aſſurance againſt the ſaid I. S.; wherefore the ſaid London Aſſurance pray that for the errors above aſſigned, and for other the errors in the record and proceedings aforeſaid, the ſaid judgment may be reverſed, annulled, and held for nothing; and that they may be reſtored to all things which they have loſt on occaſion of the ſame.

I think the laſt aſſigned error would have been ſufficient; but as the other errors cannot prejudice the plaintiff in error, and may in ſome meaſure open the nature of the caſe, and which I ſuppoſe was Mr. Baldwin's intention, I think they may remain as already drawn.

THOMAS WALKER.

Upon argument, the judgment of the court of K. B. was affirmed.

AND thereupon afterwards, to wit, on, &c. in the twenty-fourth year of the reign of our ſovereign lord George the Third, by the grace of God, of Great Britain, &c. before the ſaid juſtices of the common bench and the barons of the exchequer, comes the ſaid W. D. by A. B. his attorney, and ſaith, that the record and proceedings aforeſaid, and alſo in the matters recited and contained in the ſaid bill of exceptions, and alſo in giving the verdict and judgment aforeſaid there is manifeſt error in this, to wit, for that the ſaid chief juſtice before whom, &c. at and upon the aforeſaid trial of the ſaid iſſue ſo joined between the parties aforeſaid, did refuſe to admit the ſaid evidence ſo offered to him on the behalf of the ſaid W. D. as in the bill of exceptions is mentioned, that the duty of exciſe due and payable to his majeſty for the ſaid brandy in the record aforeſaid mentioned was fully ſatisfied and paid

Aſſignment of errors, that the chief juſtice refuſed to admit evidence that the defendant had fully paid the duty payable to his majeſty.

paid before the ſaid brandy was landed and put on ſhore out of the ſaid ſhip or veſſel in which the ſame was brought and imported as aforeſaid according to the form of the ſtatute in ſuch caſe made and provided, whereas by the law of the land the chief juſtice ought to have admitted the ſaid evidence in this action, becauſe the ſaid writing or inſtrument of condemnation in the ſaid bill of exceptions ſet forth is not concluſive evidence in this action to prove that the duty of exciſe had not been duly ſatisfied and paid before the ſaid brandy had been landed and put on ſhore, nor of ſufficient force and validity to exclude the true and real evidence of the fact to enable the ſaid W. D. to maintain his ſaid action againſt the ſaid E. C. for the treſpaſs aforeſaid; there is alſo error in this, for that by the record and proceedings aforeſaid it appears that the verdict given on the ſaid trial of the ſaid iſſue between the parties aforeſaid was given for the ſaid E. C. againſt the ſaid W. D. whereas by the law of the land in caſe the ſaid evidence had been admitted as it ought to have been the verdict upon the ſaid iſſue ſhould and ought to have been given for the ſaid W. D. againſt the ſaid E. C.; there is alſo error in this, that by the record and proceedings aforeſaid it appears that the judgment aforeſaid in form aforeſaid was given for the ſaid E. C. againſt the ſaid W. D. whereas by the law of this realm judgment ſhould and ought to have been given for the ſaid W. D. againſt the ſaid E. C.; and thereupon the ſaid W. D. prays that the judgment aforeſaid for the error aforeſaid and others in the record and proceedings aforeſaid may be reverſed, annulled, and held for nothing, and that he may be reſtored to all things he hath loſt on occaſion of the ſame.

THO. DAVENPORT.

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Aſſignment of errors on an *indictment for perjury* in an affidavit made in the court of B. R. in order to ſupport a motion for a rule to ſhew cauſe why an information ſhould not be granted againſt one W. B. for writing a ſuppoſed libel againſt the defendant, as a cornfactor to the commiſſioners for victualling his majeſty's navy removed from the Middleſex ſeſſion into B. R. - - - -	C. C. A. 437
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Aſſignment of errors to an action of covenant on indenture, " that the ſeveral covenants were made with the ſaid W. in reſpect of the eſtate and intereſt of the ſaid W. in the ſaid demiſed premiſes, and that it does not appear that the covenant was made with the ſaid W. M. or that the action was brought in truſt for any other perſon, and that the eſtate and intereſt in reſpect of which covenants were made, became determined before the ſaid ſuppoſed breaches of covenant," - - - - - -	1. H. Bl. 562
Aſſignment of errors before the lord chancellor, there being no treaſurer in the chamber council nigh the exchequer, in an action of treſpaſs upon the caſe, for malicioufly charging plaintiff with diſobedience of orders as captain of a man of war, for laying him under an arreſt, and continu-	

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ing him an unreaſonable time without bringing him to a court martial, at which he was honourably acquitted. "Firſt declaration not ſufficient in law to ſuſtain the action; ſecond, judgment ought to have been given for defendant; third, damages are aſſeſſed generally, but defendant had a probable cauſe to arreſt; fourth, the court of exchequer had not cognizance of the queſtion; fifth, damages have been aſſeſſed for the loſs of prize money, to which plaintiff is ſtill entitled; ſixth, damages given for delay in bringing plaintiff to a court martial, for which no action will lie," 1. T. R. 493

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That there is another named in the ſame original, when plaintiff brought another *ſcire facias* to hear errors, and defendant was not ſued thereon, and prays that outlawry be reverſed for the errors aſſigned, and it is, *Ra.* 295. *Non omittas ſcire facias* awarded on error in outlawry, *Jud.* 330.

Judgment that outlawry be reverſed for the errors aſſigned and others in the proceedings, *Ra.* 303. 311. That outlawry after judgment be reverſed, and judgment ſtand, *Co. Ent.* 154. That judgment and outlawry be reverſed after *nihil* returned to two *ſcire facias*, *Jud.* 263.

That immediately on the award of the ſaid writ of *certiorari*, before any certificate thereon made and returned, a writ of *ſcire facias* is now awarded to make known to R. that he be before our lord the king on the octave of Hilary then next, whereſoever, &c. to hear the record and proceedings aforeſaid, the record not *then* being ſent to our lord the king, *Ibid.*

That the court of our lord the king in Ireland proceeded to revoke judgment rendered without certifying the original, or any other certificate or anſwer of the ſaid juſtices of the bench aforeſaid thereto as above appears of record, 357.

That the court in Ireland revolved judgment by ſaid R. S. againſt the ſaid P. C when the judgment aforeſaid ought to have been affirmed, *Ibid.*

That plaintiff in his declaration does not ſhew with certainty the number of acres demiſed, but declares generally of lands in K. when it ſhould have been ſhewn with certainty, ſo that the ſaid P. may anſwer with certainty, *Ibid.* That plaintiff, by his declaration, does not ſhew for what cauſe, thing, or matter defendant was indebted, and that no good and ſufficient conſideration is ſpecified, and judgment thereupon bad, erroneous, and void, 362.

For that the precept of *ſcire facias* was only againſt one bail, and not the other, 362. That it appears of record, &c. that the ſaid defendant, by his certain bill obligatory produced in court, confeſſes himſelf to owe, &c. and no writing-obligatory mentioned in the count or record, 363.

That the attachment pleaded in bar of the action was made *pendente lite*, and ſo the attachment and judgment thereupon, and plea thereon pleaded, and the ſaid judgment in the ſaid town of L. R. thereon rendered erroneous, void, and of no effect in law, 364. That the mayor and burgeſſes of the town of L. R. by virtue of a certain writ of *procedendo* directed to them, bearing date as by the record of the 9th. of June, *A. Regni* 40. gave judgment aforeſaid at their court held 17th. October, *Anno* 39. *Ibid* 364.

That the mayor, &c. gave judgment in part againſt the ſaid John, when judgment ought to have been for the whole for the ſaid John, *Ibid.*

Error in parliament, that in reverſing judgment in the court of the huſtings in London rendered, and alſo in the rendition of the judgment aforeſaid in the ſaid court of huſtings of L. thereupon by the ſaid H. C. againſt F. G. by virtue of a commiſſion, in this, that it appears that the iſſue firſt was tried by a jury returned from four wards, namely, &c. and by the record aforeſaid it alſo appears that by ancient cuſtom of the city ſaid trial ought to have been made by a jury returned from the four wards adjoining the place waſted, &c. *Law Err.* 317. *Bro. R.* 373. 2. *San.* 351.

Upon *venire facias* and *habeas corpus jur.* that the ſheriff in the pannel, with the names of the jury to the *habeas corpus*, annexed one T. S. who was not returned upon the principal pannel by the late ſheriff to the writ of *venire facias*, and the writs of record are not certified, *Re. Dec.* 371. *Clif.* 328.

That declaration is not ſufficient, for that it is not alledged that defendant being executor, had aſſets at the time of the *promiſe*, and the *conſideration* alledged for forbearance is *nudum pactum*, and inſufficient, *Re. Dec.* 389.

That plaintiff brought his bill againſt defendant as executrix, and that plaintiff will recover damages of defendant herſelf, without ſtating the goods and chattels of teſtator, if ſo much in the hands, &c. *Ibid.*

That declaration is uncertain and inſufficient, and defendant, an infant, appears by attorney, when he ought to appear by guardian, *Mo. Int.* 284. Like on a judgment by *non ſum informatus*, *Clif.* 327. *Re. Dec.* 262. 303.

Errors aſſigned upon a writ of *falſe judgment* in the county court; firſt, for want of a warrant of attorney; ſecond, that in praying imparlance it doth not appear by the record that day was given over until the next court, and ſo the action became diſcontinued; third, it doth not appear by the record that the plaintiff is *executor* of W. C. for that ſhe did not produce the will in court, *Bro. Vad.* 276.

Upon a *falſe judgment* in county court in caſe; firſt, that it is not ſhewn before whom the firſt court was held; ſecond, damages laid forty pounds, when court could not hold plea of forty ſhillings; third, court held before the ſteward, and ought to be before the ſuitors; four, want of warrants of attorney, 2. *Mo. Int.* 260. *Re. Ent.* 314. 317. 321. &c.

Upon a writ of right; firſt, that the record does not ſtate in what county the manor of H. is, nor that the manor and tenements in the writ ſpecified were held *domino regent* or *dominico regent* as of his manor of H. aforeſaid; ſecond, that by the

the writ of right close it manifestly appears that one and the same court upon one and the same day, on the appearance of W. himself gratis, that C. and A. counted against him, &c. and judgment was given, and execution served on all, and executed when the judgment ought to have been sued out and obtained at several courts held on several days, and not on one court on the same day, &c. 2. *Mo. Int.* 265.

On false judgment, that it does not appear that any legal writ of *venire facias* was awarded, and that judgment for plaintiff ought to have been given for defendant, *Clif.* 346. and declaration is insufficient, &c.

Error assigned, that one defendant died before trial, 2. *Mo. Int.* 257. After last continuance, *Clif.* 324. 331. That plaintiff in the first action died before verdict, *Law Err.* 56. *Bro. R.* 373.

That issue was in plea of debt and *juruta* in trespass on the case, *Law Err.* 58.

That in record the several sums of money are written in *figures* instead of at large, 59.

No pledges to prosecute, want of attorney, original, and issue in *debt*, and *jurata* in *trespass*, and sums in figures, *Bro. R.* 371.

Error assigned for insufficiency of the return of the writ of enquiry, for "that it appears by the writ, was returnable on Monday next after the *quindenis* of Holy Trinity, when the *quindena* was on Monday, and that in the same term in said court, before the king himself, there was no certain day returned, and so the plaint wholly discontinued before judgment, *Law Err.* 131, *Bro. R.* 370.

That there is a manifest variance between original and declaration, 1. *Bro.* 214. Not stated who was the mayor of the city of C. and that the name of the mayor is left out of the record, 122. For variance between the first declaration of the plea and declaration on which judgment was given against defendant, 2. *Bro.* 122.

In the *exchequer*, for that plaintiff, as debtor of our lord the king, brought his bill against defendant before the barons when he was not debtor, as he ought, 123.

That the attorney named for the parties was not attorney at the time of the trial of the plea, *Ibid.* That the jury found C. a defendant, also guilty, and in the rendition of the judgment of recovery no mention is made of that C. *Ibid.* That the issue whether plaintiff was a freeman or a villain of defendant belonging to his manor of S. in the county of L. was tried by men of the city of London, *Re. Dec.* 261. That defendant demanded judgment if plaintiff ought to be answered to his writ; and plaintiff, in reply, says, that he, by the said objection, ought not to be barred when *from his action*, when he ought to have said that he ought not to be barred from *answering his writ*, *Ibid.* 262.

Defendant says, that within age, could not be assigned for error, for that the jury gave a verdict to the contrary. Plaintiff says, that it could be assigned that he had no notice of trial of the issue taken against him by default. Demurrer, and after several continuances plaintiff pleads release of errors *after last continuance*, and defendant *non est factum*, and issue, *Ibid.* 305, 306.

Error assigned, that defendant being within age ought not to be taken, fined, or imprisoned, and the entry ought to be *nihil de fine*, &c. 2. *T. Jud.* 143.

Error in *detinue* of one bond, for that by the record it does not appear of what *date* the bond was, and it does not appear if there was any condition in the bond for the payment of any sum or sums of money or otherwise, as it ought, *Re. Dec.* 268.

That it does not appear on what day, and when the said J. S. in his lifetime requested the said W. to deliver the said bond to the said J. or on what day the said K. after the death of J. was sole, or the said E. and K. after their nuptials celebrated between them, requested the said bond, 269.

In *detinue*, that there is no writ of *scire facias* issued against T. P. to shew whether the

the conditions therein above-mentioned on the part of T. himſelf was performed or not, 295.

That when the ſaid L. brought into court the ſaid writing, and the writing at the time of the ſaid verdict, and judgment thereon remained to be delivered to him, or whom the court ſhould conſider the jury impannelled by their verdict, did not find damages for the detention of the writing, *Ibid.*

For *variance between* the original and writ of *capias*, for that R. in his addition in the ſaid original named eſquire, and in his addition in the ſaid writ of *capias* thereon iſſued, is named knight. *Ibid.* 301.

Where plaintiff counted by Gibſon, his attorney, and the name of baptiſm of the ſaid G. wholly omitted, *Ibid.* That neither the ſaid J. M. had warrant to proſecute by ſaid F. A. in ſaid plea, or did ſaid R. G. ever have any warrant to appear for R. G. in the plea, 302. 324. *Law Err.* 57. *Clif.* 324. *Bro. R.* 371.

That it is not certified by the record that plaintiff brought his original againſt defendant in his plea aforeſaid of the debt aforeſaid in the record as above ſpecified, ſo that it does not appear that the juſtices had any legal warrant to hold ſaid plea, *Re. Dec.* 323.

That the continuance of the plea is not cerified by any record or return from the term of St. Michael till the term of the Holy Trinity, ſo that was wholly diſcontinued before judgment, 324.

That the original writ of the plaint aforeſaid was before the juſtices of our lord the king of the bench is filed, and is not returned nor ſent before our lord the king, *Re. Dec.* 351.

That the writ is not ſufficient in law, for that in the ſame writ it does not appear before whom or what juſtices, nor in what court of our ſaid lord the king it is returnable, *Ibid.*

That the original writ in the plea aforeſaid was not entered or purchaſed until after the verdict given by the jury in the ſaid plea of the day of the entry of the judgment, and that the ſaid being ſo inſufficient, remains of record before the juſtices of our lord the king of the bench, *Ibid.*

That there was no original to warrant the ſummons in the declaration mentioned, *Law Err.* 58. *Clif.* 325. 2. *San.* 104.

That there are not fifteen days between the day of the *teſte* of the ſaid writ of error returnable before our lord the king in Ireland and the return thereof, and therefore all proceedings thereon is without legal warrant, and void in law, *Re. Dec.* 355.

That on the adjudication of a writ of *certiorari*, &c. it is commanded to the ſame juſtices that that writ be ſent to our ſaid lord the king without delay, together with this writ, where the adjudication of the ſaid writ was not *that* writ, but a warrant only to make out the writ and *mandamus* in form aforeſaid, 356.

That the declaration is inſufficient, and judgment on the verdict inſufficient, *Lew. Ent.* 88.

IN SUPERIOR COURTS.

Original in Middleſex, for an aſſault in London, 2. *Cro.* 479.

Treſpa s for a man claimed to be villain, and *menacing* him, where the action does not lie, *Ra.* 288. *Debt* againſt an *executor* on a bill for money laid out in merchandize, "that plaintiff might have his action of account againſt teſtator, and not writ of debt," *Dy.* 20. "That the *conſideration* is not ſufficient to maintain the action," *Co. Ent.* 292. "That the declaration does not maintain the plaint," 295. In the declaration there are ſeveral inſufficiencies, 292. *Ra.* 288. Proceſs of outlawry does not lie on original, 292. Defect of warrant of attorney, 289. 346. *Dy.* 231. 262. *Vet. Int.* 136. *Aſh* 293. That warrant of attorney was *tarde* (too late taken), 8. *H* 4. 3. That plaintiff at *niſi prius* appeared by another than in the record of the iſſue, *Her.* 315. That defendant in treſpaſs being within age, appeared

peared and pleaded by attorney, *Co. Ent.* 289. That no day was given to plaintiff, and ſo diſcontinuance, 239. For that in eſſoin not ſtated in what plea, 264. 266. Death of the king, and no re-ſummons, 8. *H.* 4. 3. Want of appearance, *Ibid.* Diſcontinuance between *venire facias* and judgment, *Ra.* 290. That day was not given to plaintiff upon award of enquiry, 292. One of plaintiffs died before judgment. Plea, ſtill alive, *Ra.* 301. Want of original in treſpaſs in the *poſt*, *Co. Ent.* 241. In *debt*, 246. Plaintiff does not anſwer to the matter, traverſes, but pleads other matter, 295. Does not anſwer to plea of ſole tenancy, 312. That plaintiff in his count, ſtating a fine levied of the advowſon of a church and vicarage, does not ſet out what eſtate by the fine levied in the advowſon of the vicarage, 265. That plaintiff counts of an eſtate in the advowſon by virtue of the fine, and by force of the ſtatute of uſes, where the ſeiſin was not by force of the ſtatute but at common law, 265. That recital in the letters-patent ought to be pleaded, and not alledged by way of recital, 1. *Co.* 35. That defendant, by his avowry, does not pray return of cattle or damages, *Co. Ent.* 293. That *dies datus* or return of the writ does not appear of record, 238. That the ſheriff, on the writ of *venire facias*, ought to have returned that defendant was *ſummoned* and not attached, 238. That K. K. was impannelled on *venire facias*, and another of the ſame name was put in the *diſtringas* and *juruta*, 249. 263. 265. That the name of one of the jury impannelled on *venire facias* was omitted in the *diſtringas*, 249. That *venire facias de novo* ought to have iſſued againſt the firſt jury, and not to impannel a new jury, 396. That *venire facias* was *to try the iſſue of a plea in quare impedit*, where it ſhould be *to recognize ſi*, &c. 265. That trial of iſſue of *reſignation of the church* ought to be made by *biſhop's certificate* and not by the country, *Co. Ent.* 265. That jury have found only part of ſeveral iſſue joined, and ſaid nothing to the other iſſues, 288. That jury have found matter not charged or contained in the iſſue, *Co. Ent.* 296. That the *aſſize* ſhould remain to be taken, for that ſome of the recognitors had no view, and ſome did not come, 21. *E.* 4. 65. 22. *E.* 4. 15. That the eſſoin on the *venire facias* was not allowed, *Dy.* 97. That trial by *niſi prius* was on the eſſoin day. Defect in the verdict, *Co. Ent.* 263. That judgment againſt one of the tenants ought to be reſpited, as to the plea againſt the other ſhould be determined, 312. That plaintiff's admiſſion *within age to ſue by prochein ami* was not entered in the parliament roll, *Upp.* 39. That proclamation of baſtardy was unduly made, *Ra.* 289. That notwithſtanding the return by the ſheriffs of London on *fieri facias* againſt *executors*, that he had no aſſets. Another writ of *fieri facias*, with enquiry on *devaſtavit*, was made to the ſame ſheriffs, *Co. Ent.* 271. That judgment in a plea of land was againſt tenant for life, and one prays in aid jointly, where the judgment ought to be againſt the tenant only, *Ra.* 345.

That plaintiff pleaded a ſufficient plea to information of *intruſion*, and the attorney-general made an inſufficient replication, and demurrer to the replication, and yet judgment againſt plaintiff, *Ra.* 414. *Plo.* 566. *Aſh.* 282. Inſormation of *intruſion*, that judgment on demurrer was given for defendant, whereas it ſhould be for the king, 1. *Co.* 36.

That plaintiff in *debt* does not alledge ſufficient matter in his replication to maintain his action for the breach of covenant, and judgment ought to have been given for when it was given for plaintiff in the ſame plea, *Co. Ent.* 245.

That the original in *formedon* did not want form, and if it wanted form it was aided by ſtatute after verdict, and judgment ought to be for demandant, *Co. Ent.* 254. That where judgment in replevin ought to be "that the defendant recover damages," it ſhould be recover his damages, according to the ſtatute, 293. Where judgment was that plaintiff be in mercy for his falſe claim, ſhould be, take nothing by his bill but in mercy for his falſe claim, *Ibid.* That jury gave aforeſaid verdict whereon judgment ſhould be for plaintiff, and the court awarded a new trial for the uncertainty, 396. That judgment was for coſts on *one* iſſue tried before

the

the other iſſues were tried, 288. Againſt one defendant in treſpaſs, to whom plaintiff had before *releaſed* damages, *Ibid.* For relator in information *on demurrer* to evidence, when it ſhould be for defendant, 261. In *ejectment*, that judgment was for plaintiff, when it ſhould be for defendant, 228. By terre-tenant in *audita querela*, 238, 239. That judgment in treſpaſs was, that defendant *be taken* when he was pardoned by a *general pardon*, *Upp.* 39. That judgment, notwithſtanding the premiſes, was erroneouſly given, 8. *H.* 4. 4.

FROM INFERIOR COURTS.

That plaint was levied *two years* after *writ of right* cloſe *pleaded*, *Her.* 407. Plaint for cattle taken *at a court held before* the taking, 402. Damages alledged at ten pounds, when court have no juriſdiction beyond forty ſhillings, 398. So in *debt* beyond forty ſhillings, 398.

That in *judgment* in the Marſhalſea neither plaintiff or defendant were of the king's houſehold according to the ſtatute, *Ra.* 296. Not in the declaration, *Ibid.* That *iſſue* in *court baron* was tried by the *oath* of twelve, when by the law of the land the court have no power to try the iſſue by the oath, &c. 345. That the writ of right cloſe was directed to the bailiff and ſteward, where it ſhould be directed to the bailiff only, *Co. Ent.* 307. Not ſtated on record *in what court* of the manor or monaſtery it is, *Ra.* 343. 345. Not alledge in the writ or declaration whether lands are parcel of the manor, *Ibid. Vet. Int.* 137. Not alledged whether lands are held of the manor or parcel of the ſame, *Ra.* 345. *Her.* 408. Of whom the manor is held, 407.

Error in *debt* in city court, 1. *Bro.* 216. 2. *Bro.* 113. 1. *San.* 89. In aſſize of novel diſſeiſin in city court, whereon juriſdiction allowed, *Reg.* Diſallowed, 216. Replevin, *Ra.* 306. Caſe, *Co. Ent.* 290. Before juſtices in eyre, 1. *San.* 269. *Reg.* 286.

Error in court of Lyme Regis, *Re. Dec.* 363. County court, *Bro. Vad.* 275. In poſt diſſeiſin before the ſheriff, *Reg.* 209. On judgment before chief juſtice of Ely, *Law Err.* 123. *Lev. Ent.* 90. On record removed from provoſt court of Exeter, *Bro. R.* 361. In city court of Briſtol, 1. *San.* 86.

Error in aſſize of lands in inferior court, *Ra.* 291. 293. 309. *Reg.* 203. 216. 217. *F. N. Br.* 24. *Her.* 20. Of rent, *Ra.* 306. Aſſize of *freſh force*, *Reg.* 16. In court *of a liberty* granted to a *perſon* by deed, 132. Debt before mayor of the ſtaple, 130. On judgment in the Marſhalſea court, *Ra.* 296. *Reg.* 17. Replevin in manor court, *Co. Ent.* 292. Stannaries, 293. *Treſpaſs* before the ſheriff of London, *Reg.* 130. *Vet. Int.* 54. Huſtings in London, 130. *F. N. Br.* 23. Writ commanding juſtices appointed to correct error in London of proceſs ſent to them, *Reg.* 34. *Alias* where *tarde* was returned to the former writ, *Reg.* 34.

ON FINES, AND ERRORS ASSIGNED.

Writs of error on fines levied in C. B. *Ro. Ent.* 293. 2. *Bro.* 117. *Law Err.* 191. *Co. Ent.* 250. 255. *Her.* 370. 375. *Aſh.* 283. *Coram nobis*, *Her.* 370. In fine ſurrender, where part of lands are ancient demeſne, *Reg.* 13.

Executors aſſigned, that by *dedimus poteſtatem* two commiſſioners *at leaſt* ought to take the conuſance of cognizors, and by the record it appears one only took, 1. *Bro.* 214. That it does not appear that *two* or more took the conuſance of the fine in the county of Cheſter, *Cif.* 330. And on alledging *kindred* by plaintiff, leave granted to purchaſe a better writ of error, and writ *de novo*, &c. *Ibid.* Error on fine levied at Cheſter, 337.

That one of cognizors was within age at the time of the levying the fine, 2. *Bro.* 120. *Cq. Ent.* 256. *Her.* 375.

That two proclamations were made the ſame day, *Ro.* 269. *Law Err.* 193. *Co. Ent.* 251. *Her.* 273. *Aſh.* 287. One proclamation on the Lord's Day, *Plo.* 265. *Dy.* 181. *Aſh.* 287. Out of term, *Dy.* 181. *Aſh.* 287.

Writ

Writ of error on a *fine* reciting three writs directed to chief juſtice keeper of writs and the chirographer, and their return by the couſin and heir, and ſon and heir for default in the proclamation. On *ſcire faciat* defendant pleads that by the indorſement of the proclamation by the chirographer with the keeper of the writs there was a miſtake in the proclamation, and that they are rightly indorſed by the chirographer; *certiorari* thereon, and on the return proclamations are amended, *Ro. Ent.* 294. *Her.* 370.

Errors aſſigned *within age* at the time of the levying of the fine; witneſſes produced; *ſci. fa.* awarded to the cognizee, who comes and has imparlance, 2. *Bro.* 120. *Co. Ent.* 257.

Errors aſſigned, for that two proclamations in one day, plaintiff alledges that conuſee is dead, and *ſci. fa.* to the heir to hear errors and judgment for plaintiff, *Law. Err.* 193.

Error to reverſe a juror's judgment in a common recovery in the county palatine of Lancaſter; errors aſſigned; infancy of tenant; and appearance, 2. *San.* 91. *Theſ. Br.* 99. 105. 106. 108. Errors aſſigned, no writ of entry.

That there was no *note* whereon the fine could be ingroſſed, *Co. Ent.* 232. That conuſance of the fine was made before *dedimus poteſtatem.* and ſo the fine taken without warrant, 256. Default in entry of the king's ſilver, *Ibid.* 232. Only five proclamations, *Ibid.* 251.

Writs by huſband and E. his wife on a fine levied by T. and that E. then his wife was within the age of twelve years, that ſhe after diſſented to the marriage and took another huſband, and that ſhe is yet within age. On two *ſci. fa.* defendant makes default. Wife found to be within age. *Cur. adv. vult.* and fine reverſed, *Her.* 375.

Imparlance to errors aſſigned; plea *in nullo*, &c. *cur. adv. vult. Sci. fa.* awarded to terre-tenants on a fine levied in Cheſter. *Sci. feci* returned; terre-tenants appear and *nil dicunt*, *Co. Ent.* 235.

GENERAL ERRORS ASSIGNED.

Errors aſſigned generally, *Re. Dec.* 269. 370. *Mo. Int.* 282. *Bro. Met.* 263. 271. *Cl. Aſſ.* 111. *Law. Err.* 127. 131. 256. *Clif.* 315. 317. 322. 328. *Bro. R.* 365. 370. 2. *Ven.* 307. 2. *San.* 316. *Lev. Ent.* 97.

On judgment in Wales, 2. *San.* 36. In Durham, *Ibid. firſt part*, 73. In county and city of Briſtol, 96. In Lancaſter, *Ibid. ſecond part*, 91. Huſtings in London, 2. *San.* 247.

Error becauſe declaration is inſufficient, and judgment for plaintiff, whereas it ought to be for defendant, *Cl. Man.* 228. *Mo. Int.* 282. *Clif.* 315. *Bro. R.* 370. 2. *San.* 222. In parliament, *Ibid.* 224. 399. That ſaid declaration and matters therein are not ſufficient in law, and proceedings and judgment void, *Law. Err.* 122. And judgment for plaintiff. which ought to be for defendant, *Ibid.* That judgment aforeſaid above rendered by the ſame court of B. R. in *Ireland* was affirmed whereas it ought to be reverſed, *Clif.* 326.

Errors aſſigned on an *inditment* that it was inſufficient and wants form, &c. *Bro. R.* 373. That writ of *ſci. fa.* and matters therein contained are not ſufficient, &c. 2. *San.* 287.

Error by an *idiot* on judgment in *dower* for a third part of a manor, and judgment affirmed, 2. *San.* 328.

Error in *dower*, *Co. Ent.* 248. In *quare impedit* on a bill of exceptions, *Ro. Ent.* 293. *Co. Ent.* 364. Of a record *coram nobis*, *Ibid.* 267. *Raviſhment of ward*, *Wi. Ent.* 469. *Ra.* 309. On a judgment of carrying away wife with goods of the huſband, *Re. Dec.* 284.

Error in *debt*, 1. *Bro.* 214. *Law. Err.* 133. *Clif.* 314. 326. directed to the ſenior judge of the bench, and *Ra.* 293. *Co. Ent.* 244. 246. Debt on ſtatute.

2. *Br.*

2. *Br.* 237. Debt by ſheriff for eſcape againſt executor, 2. *Bro.* 126. Sent into *B. R.* 2. *San.* 98, On recognizance taken in C. B. *Ro. Ent.* 292.

Error in ejectment, *Ro. Ent.* 292. 2. *Mo. Int.* 251. *Clif.* 321. In falſe impriſonment, *Re. Dec.* 255. Treſpaſs, *Ra.* 287. 290. *Co. Ent.* 272. 288. and aſſault, *Mo. Int.* 279 Caſe. *Mo. Int.* 249. By plaintiff in *replevin* on judgment againſt him and affirmed, 2. *San.* 282. By *avowant* on judgment againſt him. 309. In dower ſent into B. R. *Han.* 96. Detinue, *Re. Dec.* 203. On ſtatute of hue and cry, 269 In debt on ſtatute, 2. *Br.* 237. In *prohibition*, *Clif.* 398. In *formedon*, *Co. Ent.* 252. By the king by reaſon of attaint in entry in the poſt whereon a common recovery was ſuffered, 240. In a plea of land, *Ra.* 289. In aſſize ſent into the bench, *Reg.* 216. In rediſſeiſin in *Reg.* 208. Writ of falſe judgment on a writ of right cloſe, *Vet. Int.* 137. In *intruſion* by marriage, *Co. Ent.* 262. *Audita querela* of lands by adminiſtrator, 234. Annuity, *Ra.* 290. In information, *Co. Ent.* 257.

That it does not appear by the declaration that tenements are *deviſable*, nor that *deviſor died*, *Co Ent.* 312. That precept ſhould be directed to *bailiffs*, and *not* ſheriff, 315. That court was held before *ſteward*, when it ought to be before ſteward and ſuitors, *Co. Ent.* 293. Before ſheriff and ſuitors, *Her.* 398. 402. That no ſummons was awarded. *Co. Ent.* 307. Not ſtated who was bailiff of the hundred, *Ra. Ent.* 315. *Dy.* 262. Not ſtated *who is lord* of the hundred, *nor whoſe court*, nor who were *ſuitors*, *Her.* 404. That precept was to bailiff to make recognizance of aſſize to view the rent when a view ſhould be made of the tenements from whence the rent comes, *Ra.* 346. *Vet. Int.* 136. That aſſize was taken without the return of the precept of *diſtringas* of recognitors, *Ra.* 346. *Vet. Int.* 136. That plaintiff challenged certain recognitors for inſufficiency, and yet the ſuitors cauſed them to be ſworn, and gave plaintiff (*billam*) of the challenge, *Ra.* 346. *Vet. Int.* 136. That in the common recovery in the court of the manor it does not appear that lands are held of the manor, nor *in what county* they are, *Aſh.* 309. That all the proceedings were (*gratis*) on the *ſame* day, when it ſhould be on *divers* days, *Aſh.* 310. Proceſs prayed, but not ſhewn whether made or executed, *Her.* 408. Not ſhewn that the jury were elected or ſworn, nor who they were, *Co. Ent.* 295. Not ſtated that court was held before bailiff or ſuitors of the manor, *Co. Ent.* 307. 314.

Not ſhewn before *whom firſt* court was held, *Her.* 398. That precept of *venire facias* was uncertain, *Co. Ent.* 315. Seiſin delivered by bailiff and not ſpecified *by what precept*, *Her.* 408. No warrant of attorney, *Co. Ent.* 314. *Dy.* 262. *Vet. Int.* 136. *Her.* 398. Not ſhewn whether vouchee comes by attorney or in his own perſon, *Ibid.* 408. That judgment is (*in apte*) not well ſhewn, *Co. Ent.* 315. That judgment was *in mercy* when it ſhould be *capiatur*, *Her.* 396. Not ſtated before what judge judgment was given, *Co. Ent.* 307. Before ſuitors only, and not the bailiff, *Her.* 401. Not ſhewn *for what time leave to impari* was given, *Ibid.*

ERROR IN THE MATTERS AS PLEADED.

That plaintiff in his declaration for words does not alledge the place (*colloquii*) where the converſation took place, *Co. Ent.* 292. Not ſhewn *on what day award* was delivered, *Her.* 315. That arbitrators have not obſerved *ſubmiſſion*, *Ibid.* Not averred that he was the *heir*, 1. *Co.* 36. Not ſhewn *what day* defendant was ſeiſed of lands, *Co. Ent.* 238. *What day* ſheriff delivered tenements, *Co. Ent.* 238. *What day* writ was executed or inquiſition taken, *Ibid.* By record of inquiry that executor waſted aſſets, 271. Not ſhewn that W. was ſeiſed of the remainder. 1. *Co.* 12 No ſuch act of parliament, *Co. Ent.* 261. That the ſaving in the act is void, 1. *Co.* 36.

That the king had not title before the inquiſition, 1. *Co.* 35.

That demiſe of lands in another county whereof leſſor was not poſſeſſed, was void,

Co.

Co. Ent. 261. That *feme covert* could not ſurrender letter's patent to be cancelled, 1. *Co.* 35. That inquiſition ought to be returned into the exchequer, and not chancery, *Ibid.* That the entry was not lawful after recovery, 1. *Co.* 12.
That tenant for life is ſtill in being, and entry unlawful, *Ibid.* 13.

ENTRIES THEREON.

Errors aſſigned. *Scire facias* awarded. Appearance. *Non miſit breve*, *Co. Ent.* 139. 154. 250. *Scire feci* returned. Imparlances to aſſign errors, 241. Like, and appearance and plea in *nulio*, &c. 246. 266. 292. 293. 296. Like, and *cur. adv. vult.* judgment affirmed with coſts, *Jud.* 289.
Scire facias awarded to a ſucceſſor of an abbot to hear errors, *Ro.* 308.
Scire facias, *alias*, and *pluries* awarded to hear errors. *Co. Ent.* 202. 289. Sheriffs return *ſci. feci.* Appearance. Plaintiff alledges errors, and imparlance, *Ro.* 288. 296. *Co. Ent.* 230. Return *nil habet* appearance. Plaintiff alledges errors firſt aſſigned in *nullo*, &c. *cur. adv. vult. Ro.* 288. *Sci. fa.* awarded. Return *nil habet.* Defendant does not appear, *cur adv. vult. Co. Ent.* 268. Further day by aſſent of parties to aſſign errors, *Ro.* 307. Imparlance to aſſign errors, *Aſh.* 297.

ON FALSE JUDGMENT. (*See* TIDD's Practice, third Part, p. 943.)

Error in plaint levied in county court in treſpaſs on caſe, *Ro. Ent.* 313. On *accedas ad curiam*, 317. Ancient demeſne, 315. In county court in treſpaſs, *Ibid.* In *replevin*, *Ibid.* In the court of the manor in writ of right *parvo*, &c. 319. On *accedas ad curiam* of a dean of free chapter, *Ibid.* 321.
That when plaintiff in aſſignment replication ought to have alledged ſufficient matter by which it might appear to the juſtices that plaintiff had ſufficient cauſe of action, yet no ſuch alledged, &c. *Law. Err.* 134.
That no bill in the record ſtated in the court of our lord the king of the bench is aſfiled, or remains of record, 257. *Bro. R.* 371.
Error on *judgment* in county palatine of Lancaſter, for that plaintiff after ſuing out original, and before taking the oath, took to huſband lord R. S. *Clif.* 313. Demurrer and judgment for plaintiff in error by default, *Ibid.*
That plaint in the inferior court of H. levied, and upon which all proceedings in ſaid court of Cheſter were had does not contain any apt words to entitle ſaid M. to ſaid debt of fifty-two pounds, without ſtating in the *debuit*, or *detinet*, or *detinuit*, or whether either *debit* or *detinuit*, *Clif.* 223.
That by the record it does not appear in what year the ſaid ſeſſions of Cheſter was held at C. on the thirteenth of April, that it was held and for that cauſe bad, and for not ſtating what time in the reign of the king, or the time of his age or otherwiſe, *Ibid.*
That the writ of *certiorari* on which proceedings were had is returned before juſtices ——at C. but it does not appear that he ſaid J. W. eſquire, in the record mentioned was a juſtice of C. or only a magiſtrate, and therefore proceedings *coram non judice*, *Ibid.*
That it does not appear that the parties, either plaintiff or defendant, appeared by themſelves or attorney at the return of the writ of *certiorari*, nor had a day in court at C. but ſaid N. counted againſt N. and E. without any appearance, ſo there was a diſcontinuance, *Ibid.* And in this that by the count it appears that cauſe of action accrued on a writing obligatory, and in the *alias dictus* it is omitted and action not rightly founded. *Clif.* 323. That the declararion in other parts is not ſufficient to maintain an action in counting on a bond bearing date the eleventh of May, Jac. 2. *nunc. angl.* 3. and not ſtating the time of the reign or age, *Ibid.* That it appears there was a demurrer before the chief juſtice of Cheſter, in which caſe it ſhould be *cur. adv. vult.* but juſtices proceeded on the return. *Certiorari.* Declaration, demurrer, joinder, and judgment on the ſame day, *Ibid.*
That no original filed of record in Lancaſter, *Ibid.* 374.

Error

Error aſſigned in taking conuſance of a fine in the county palatine of Cheſter, *Clif.* 330.

That it appears an infant is admitted to ſue by guardian where ſaid infant was tenant in the plea aforeſaid; 2d, that no appearance is entered on record aforeſaid for the ſaid T. H. by his guardian; 3d, not of record whether T. H. ever appeared or vouched to warranty ſaid T. B. but that appearance and the voucher to warranty altogether uncertain and inſufficient, 2. *San.* 91.

Diminution alledged in the record in the original and offered himſelf thereon, and award of judgment of the whole judgment and proceedings, viz. writs of *capias*, *alias capias pluries*, *capias exigent*, and proclamation. Appearance, continuance, and warrants of attorney, *Ro. Dec.* 328. Diminution in not certifying writ of *ca. ad reſp.* againſt defendant, *Clif.* 325. Writ of inquiry of damages. *Ibid.* On *venire facias* and *habeas corpus jurata*, *Ro. Dec.* 371. *Clif.* 328. Entry on diminution of record alledged, *Han.* 134.

Error aſſigned for writ of *venire facias* was teſted out of term, *Clif.* 329. That writ of *venire facias* on which iſſue was tried was returned between defendant and one T. L. and not Robert lord L. therefore plaintiff not a party to the record, *Ibid.* Error aſſigned as well in the rendition as in the award of judgment, 2. *San.* 214. 223. 342. Errors aſſigned before the juſtices to examine errors in the huſtings of London, "that it appears to the court that the verdict ought to be quaſhed as bad, &c. new trial had, and new return of beadles, and new precept of *diſtringas jur.* &c." whence the verdict was good, 2. *San.* 247. Error aſſigned on a judgment in *premunire*, for "that *venire* is awarded by precept where it ſhould be *is commanded* and reverſed, *Ibid.* 392. That judgment is given for plaintiff to recover damages in the court at Briſtol of debt and damages where plaintiff does not pray damages in his replication, *Ibid.* 96. In *replevin* that avowants pray writ of return of cattle and afterwards had a writ to enquire of the value of the cattle, 2. *San* 287.

Error aſſigned, "that it is alledged that jury ſay *but not on oath*," and judgment reverſed, *Ro. Ent.* 315. Aſſignment of errors by defendant on *replevin* in county court, *Ibid.* 317. On judgment in debt in court baron, 2. *Bro.* 129. In *caſe* in the hundred court where defendant makes default and imparlance to aſſign errors want of, *Ibid.* In *caſe in demidio hundredi*, and judgment on the verdict, *Ro. Ent.* 317.

Falſe judgment reverſed, for "that it does not appear by the record that firſt court was held, and that ſaid W. by his declaration complains that he was injured, and to have damages to twenty-nine pounds, where the court could not hold plea of forty ſhillings, 2. *T. Jud.* 137. That the court was held before the ſteward, where it ought to be before the ſuitors and ſheriff, and ſo *coram non judice*, *Ibid.* For default of warrant of attorney for ſaid W. or ſaid J. in ſaid plaint, *Ibid.* That it does not appear of record before what judge or judges ſaid court on twenty-ſixth J. in the year of the reign of our lord the king twenty-nine was held, nor that the ſaid G. or the ſaid W. appeared at the ſame court, nor that any day of appearance for them, or either of them, was given by the ſaid court, *Ibid.* 139. That it appears by the record that ſaid cattle were taken on the fifteenth J. in the year, &c. fifteen, and that the plaint was levied at ſaid county court of ſaid ſheriff nineteenth December, *anno* 14. and ſo plaint levied before taking the cattle, *Ibid.* That it does not appear that any court was held before any bailiff of the manor or any ſuitors of the court baron there, *Ibid.* That plaint was diſcontinued, for that ſaid T. D. and E. did not appear at the ſame court *parvum* of our lady the queen at M held the ſixth day of M. *anno* 37. aforeſaid, *Ibid.* That it appears that the ſaid T. and E. and J. W. and A. appeared in the ſame court by attorney, and no warranty of attorney on record, *Ibid.* That it appears on record that precept was directed to R. R. one of the ſuitors of the manor or lordſhip aforeſaid, and to the miniſter of the court aforeſaid, that the tenements aforeſaid, with

with the appurtenances, became re-ſeiſſed where the ſame R. R. was a ſuitor and domeſman (*judge*) of the ſame court, 140. That it appears of record that the ſaid R. V. of W. and P. V. two of ſaid tenants, pleaded that they were not tenants on the day of ſuing forth the writ of aſſize nor ever afterwards but in reverſion after the death of A. *Ibid. Ro. Ent. Tit. Error.*

Plea in *nullo eſt erratum*, *Cl. Aſſ.* 213. 84. *Law. Err.* 127. 136. *Clif.* 315. 317. 323. 326. 1. *San.* 73. 96. 180. 2. *San.* 37. 92. 223. 248. *Lev. Ent.* 97. *Tho.* 458. *Han.* 97. 2. *Vin.* 291. 2. *Bro.* 122. *Re. Dec.* 390. *Bro. Met.* 264. 272. 2. *Mo. Int.* 258. In falſe judgment, *Ibid.* 261. 265. And *cur. adv. vult. Ro.* 288. *Co. Ent.* 154. 239. 246. 248. 250. *Fin.* 121. Releaſe of errors, *Aſh.* 299. *Puis darrein continuance*, 1. *Co.* 13. 21. *E.* 4. 43.

Errors aſſigned by attorney general in *entry* of lands, whereof one attainted was ſeiſed in tail. *Plea* that the king made to defendant letters patent of reſtitution of lands. Demurrer thereto. Judgment againſt the king, *Co. Ent.* 243.

Plea in bar that *infancy* cannot be aſſigned for error, for that a jury gave their *verdict* to the contrary, *Re. Dec.* 305. Replication that he can. Demurrer. Joinder. *Cur. adv. vult.* 305.

Plea proteſting that errors aſſigned are not ſufficient for plea, that the original writ was in due time delivered and entered, and traverſe that entry and purchaſe was after judgment, *Ibid.* 354.

Error that plaintiff in the firſt action died before verdict, defendant ſays that he died after. Replication *before*, and traverſes *after*. Demurrer. Joinder, *Law. Err.* 56. *Bro. R.* 374.

Plea of releaſe of errors, *Re. Dec.* 309. *Law. Err.* 259. Replication *non eſt factum* and iſſue, *Bro. R.* 372.

Plea to error by *prochien ami* for an ideot, that he was of ſound mind and underſtanding till a certain day, and traverſes that he was an ideot from the time of his nativity, and iſſue on the traverſe, 2. *San.* 233.

Judgment by default againſt three, that two of them were within age, *Dy.* 104.

On error in *fine* that it does not appear that two or more commiſſioners took the caption. *Certiorari* to juſtices of Cheſter, and return. And one of plaintiffs dead, *puis darrein continuance.* Confeſſion by defendant to be true, and judgment that writ be quaſhed, *Clif.* 331. And leave given to purchaſe a better writ on the ſuggeſtion of next akin.

Judgment when another judgment is *reverſed* in a writ of error, *Tho.* 450. 459. When *affirmed*, *Ibid.* 458. For default of plaintiff in error after iſſue joined, 2. *San.* 334. In error on a verdict in *waſte* in court of huſtings in London, for that it appears to the juſtices that firſt verdict is in nothing erroneous, and no new trial ought to be had, nor regard to the ſaid twelve pence for coſts and charges, for that coſts and charges in this caſe are not allowed by the cuſtom, and that the ſecond verdict and judgment thereon be reverſed, afterwards errors aſſigned in parliament on reverſing firſt verdict and judgment affirmed, 2. *San.* 250. In *replevin* judgment affirmed for the avowants, 288. 317.

Judgment affirmed in *parliament* on judgment reverſed by court to *examine errors* in the huſtings in London, 2. *San.* 251. On writ of error by defendants default, 1. *Bro.* 217.

On judgment reverſed in the exchequer chamber for error, 1. *Bro.* 214. *Fine* reverſed, for that the *deforciant* at the time of the levying was *within age*, 2. *Bro.* 121.

Several continuances, and ſeveral judgments for plaintiff on errors aſſigned, *Re. Dec.* 366.

Judgment affirmed in exchequer, and record remitted before B. R. *Ibid.* 392. *Bro. Met.* 264. 272. 274. In parliament, 2. *San.* 225. *firſt part*, *Ibid.* 180. *Non proſ.* and judgment on writ of error in exchequer on a judgment obtained in B. R. in caſe for words, *Bro. Met.* 274. 281. That the former judgment be reverſed

as to three defendants, and reſtitution, &c. That the plaintiff take nothing by his writ, 2. *Mo. Int.* 271. On *falſe judgment*, judgment vacated and reſtitution awarded, and the errors ſpecially ſet forth: firſt, that no appearance is recorded; ſecond, no entry of verdict; third. not ſtated for *whom* judgment given, *Ibid.* 266. That a fine be reverſed, and *certiorari* to *cuſtos brevium* that the fine be cancelled, *Law. Err.* 194.

Judgment affirmed in the council chamber (upon an action for words brought in exchequer) and reverſed in parliament, *Law. Err.* 323.

Judgment by default againſt plaintiff in error (upon defendants demurrer) in the chancery of the county palatine of Lancaſter upon error brought upon a judgment there before juſtices. *Clif.* 311.

Judgment affirmed where plaintiff in error alledges by *prochein ami* idiot from nativity. Plea that he was of a ſound mind on a certain day and iſſue, plaintiff in error *non proſ.* and judgment affirmed, 2. *San.* 232. Affirmed on verdict, and judgment in caſe in Durham, *Ibid.* 400. In debt *there*, 1. *San.* 73. On error brought to reverſe a judgment in a *common recovery* in county palatine of Lancaſter, 2. *San.* 194. On error to reverſe a judgment given in great ſeſſions of Wales, *Ibid.* 38. On a writ *de quod ei deforciat*, *Ibid.* In debt on judgment in the court of Briſtol, 1. *San.* 97. In *ejectment*, judgment affirmed in the exchequer, and the record ſent back, *Ibid.* 180. On judgment in C. B. againſt executor, (when aſſets had come to hands) and aſſigns, for that the judgment is that the executor ſhall be *in mercy*, 2. *San.* 224. And affirmed alſo in parliament on general errors aſſigned, *Ibid.* 225. Judgment reverſed in *premunire*, 393.

Judgment reverſed in debt by executor, and plaintiff confeſſes *reſtitution*, 2. *San.* 105. *Non proſ.* in error after *ſci. fa.* returned, *Han.* 131. 136. In error and damages *per formam ſtatuti*, 128. On *ſci. fa.* and coſts allowed for *non proſ.* in error, *Ibid.* 158. On writ of attaint of verdict in ejectment, *Ibid.* 164.

Default in writ of error and judgment, *Tho.* 459. On falſe judgment, a judgment in an action on the caſe in the county court reverſed, and precept of reſtitution awarded, 2. *T. Jud.* 137. *Mo. Int.* 261. Where defendant does not appear, 2. *T. Jud.* 137. Where one bailiff levied the money and paid them to defendant, *Ibid.* 138.

Judgment in debt reverſed and ſuitors amerced, and plaintiff prays and has writ directed to defendant to reſtore the money, and he comes and ſays that he delivered the writ to defendant who does not pay him the money, therefore another awarded under a penalty, &c. *Ibid.* Judgment in a writ of *right cloſe affirmed*, 2. *Mo. Int.* 266. 2. *T. Jud.* 139. *Reverſed* and writ of reſtitution and enquiry of iſſues and profits awarded, *Ibid.* Where ſuitors are amerced for falſe judgment and writ of reſtitution and inquiry of iſſues returned, *Ibid.* 140. Judgment that the account is juſt on *accedas ad curiam* of dean of chapter, *Ro. Ent.* 321.

Demiſe of the king before aſſignment of errors and award of re-ſummons thereon, *Ra.* 307.

Plea of new writ of error, one of plaintiffs, an executor, makes default; ſummons to ſue awarded, *Ibid.* 308. One plaintiff makes default, award of ſummons to ſue, and default thereon. *Sci. fa.* award to the executor of an executor to hear errors, *Ibid.*

Error by two executors after award of *ſci. fa.* One died. Writ quaſhed. Another writ pleaded. Award of *ſci. fa.* Sheriffs return *nil habet.* Appearance, and in *nullo*, &c. *cur. adv. vult. Co. Ent.* 271. *Jud.* 269.

Pluries ſci. fa. return *ſci. feci.* Appearance *in nullo*, &c. *cur. adv. vult.* Plea by defendant of *diſcontinuance* of writ of error, that plaintiff comes by attorney, when he was admitted to proſecute by guardian. New writ pleaded. *Sci. fa.* awarded. *Sci. feci* returned, and defendant makes default, *Co. Ent.* 282.

Plea to abate or quaſh the writ, that plaintiff confeſſes and has leave to obtain a better writ. New writ pleaded, *Ra.* 107. Where writ was not properly obtained.

New

New writ pleaded, and *ſcire facias* thereon, *Jud.* 270. *Aſh.* 292. Attorney general prays leave to obtain a better writ, for that firſt writ is abateable, and new writ pleaded, *Co. Ent.* 241.

Diminution alledged in the continuance of the *venire facias* and award of *certiorari*, *Ra.* 290. After imparlance in defendant's title between *inter hæc verba* and *inter hæc verba*, and *in other words* in the award of writ in aſſize and award of *certiorari* to juſtices at aſſize, *Co. Ent.* 290. Award of *certiorari* to chief juſtice, and *cuſtos brevium* of warrant of attorney. *Cuſtos non miſit, &c.* Chief juſtice certifies warrant. Award of *ſcire facias*. Plaintiff aſſigns other errors. Judgment affirmed, *Ra.* 289. Award of *certiorari* to *cuſtos, &c.* of *exigi facias*, and certificate thereon, *Co. Ent.* 154.

Diminution in writ of *ſeiſin*, and return. *Certiorari* to *cuſtos, &c.* and return, *Co. Ent.* 242.

Errors aſſigned. Want of original in *writ of entry*. Diminution in writ of ſeiſin and return. *Certiorari* to *cuſtos, &c.* and return, and afterwards award of *certiorari* to *cuſto*, *&c.* to certify original, and return. Imparlance and plea, *Co.* 242. Want of original in *debt*.

Certiorari to *cuſtos, &c.* certifies no writ. *Scire facias* to defendant, who appears, and alledges diminution in original, and continuance thereon. *Certiorari* to chief juſtice, and *cuſtos, &c.* They certify original and *entry* of the *capias*. *Alias capias*, *pluries capias*, and imparlance, *Co.* 247.

After errors aſſigned, and *in nullo, &c.* pleaded, *certiorari* to *cuſtos, &c.* to certify original in *formedon*. Certificate thereon, *Co.* 254.

Errors aſſigned in *venire facias*. *Habeas corpus juratorum*, and in taking the *verdict certiorari* thereof to *cuſtos, &c.* who certifies the ſame. Defendant ſays that verdict was rightly taken, and prays *certiorari* of *indorſement* of writ of *habeas corpus juratorum*. Return thereof. Defendant prays to amend according to the ſtatute in a word, viz. *librat.* for *librarum*, and thereon to the reſidue pleads *in nullo, &c. cur. adv. vult.* and judgment affirmed, *Co.* 263. Judgment affirmed on *amendment* of matter aſſigned for error, *Jud.* 306. Divers errors aſſigned. *Certiorari* to chief juſtice, and *cuſtos in hæc verba* return by chief juſtice. *Scire facias* to hear errors. *Scire feci in nullo. &c. cur. adv. vult. cur. ulterius adv. vult. Certiorari*, and thereon *diminution* alledged in the continuance. *Certiorari de novo* to chief juſtice, and *cuſtos, &c.* return *cur. adv. vult.* One plaintiff a biſhop is tranſlated archbiſhop. Diſcontinuance of writ, and new writ of error pleaded. Errors aſſigned, *de novo*, and *certiorari* to chief juſtice, and *cuſtos, &c. non miſerunt brevia*. Death of chief juſtice, *Certiorari de novo* to ſenior juſtice, and *cuſtos*. Return, and *ſcire facias* to hear errors, *Ibid.* 265.

Error in judgment in C. B. againſt L. F. *knight*, after record ſent, and before aſſignment of error. L. F. *eſquire*, *adminiſtrator*, prays leave to purchaſe a better writ, and hath it. Another writ pleaded of *record coram nobis*. Errors aſſigned. Want of warrant of attorney. Two writs of *certiorari* awarded. One warrant is certified. In *nullo*, &c. pleaded by two *executors*. Plaintiff alledges *miſpriſion* in writ of error, for that judgment was in the time of the *late* king. New writ pleaded and *ſcire facias*. Plea by two executors as before, and one dies. New writ of error, and plea as before. Judgment reverſed, *Aſh.* 290.

Errors aſſigned in treſpaſs and aſſault. 1ſt, That judgment is entered *capiatur* after a general pardon. 2d, No admiſſion on record to ſue by next friends in the name of either of the prothonotaries. Replication, that by the practice of the court judgments in treſpaſs after a general pardon are entered as well *nihil* as to the *fine*, becauſe he is pardoned, as that defendant *capiatur* in *one line*, and in the margin *pardonatur*. And that the filazers enter admiſſion to ſue by next friend before the declarations. *Certiorari* to chief juſtice as well of the record of admiſſion as the practice of the court in that reſpect. Chief juſtice certifies

record of admiſſion, and the firſt point in practice, but does not anſwer to the other. *Certiorari de novo*, and the other point of practice is certified, *Up.* 39.
Errors aſſigned, and *ſcire facias*, *non miſit brevium*, appearance, and alledges *diminution* in the return of the *poſtea*, *Her.* 315.
Chief juſtice *non miſit certiorari* of diminution, and errors alledged as before. Imparlance, *Jud.* 271.
Entry, that the record of the inferior court is not the ſame ſent into court, *Vet. Int.* 17.
Mittimus entered on record, 34. *H.* 6. 52.
Plea, that record was ſent into B. R. by writ of error, and remains not reverſed, *Ra.* 41. *Co. Ent.* 8. 17. 35. 127. 146. 216. 509. 516. 611. 1. *Co.* 83. In *aſſize*, when record was ſent into C. B. by *certiorari*, *Co. Ent.* 90. or 92.

WRITS AND PROCEEDINGS, &c.

Alias writ of error, *Reg.* 216. or 116. *Pluries*, 217, 286.
Writ of *procedendo* to examine error, where plaintiff *non proſ.* 132. Writ on certificate of the *reſidue* of the record in aſſize on diminution alledged, *F. N. Br.* 25. To chief juſtice to certify *reſidue* of record in a plea of land where *part* was firſt certified, *Ibid.* 116. *Alias* writ of record ſent of judgment in the inferior court where the *now* mayor returned that no judgment was had by predeceſſor, and *amerced* for his falſe return, *Theſ.* 68.
Continuances in error, *Bro. Met.* 262. 271. 279. 2. *Mo. Int.* 258. &c: *Clif.* 324. In falſe judgment, *Ibid.* 347. Several continuances, *Re. Dec.* 366. 2. *San.* 248. *Ibid. ſecond part*, 37.
Writ to ſuperſede execution on finding bail, *Reg.* 129. To diſcharge a priſoner on depoſiting damages awarded, and to find pledges to proſecute writ of error with effect, *Ibid.* 129.
That the goods of the perſon who proſecutes error may not be removed out of the city to make void execution of the judgment if affirmed, *Reg.* 131.
Writ to juſtices at aſſizes to confeſs or deny bill of exception by them made on taking the aſſize where error is pleaded, *Ra.* 293.
Mittimus of the *foot* of the *fine* levied in borough court by charter when fine reverſed by writ of error, *Ra.* 296.
Scire facias bail on error. *Vicecomes non miſit breve.* Appearance. Plaintiff as before alledges error. Imparlance for defendant, who makes default, *cur. ad vult. Re. Dec.* 369. Plaintiff in error comes into court and ſurrenders to the marſhal, and immediately alledged error, *Ibid.* 373.
Certiorari to *cuſtos brevium*. Return. *Scire facias* to defendant. Bail for plaintiff. Errors alledged, and plaintiff on judgment *vicecomes non miſit breve*. Appearance. Alledges error as before. Imparlance, and defendant makes default, *Re. Dec.* 374.
Errors aſſigned. *Scire facias* to hear errors. Appearance. Errors alledged by plaintiff before aſſigned. Plea, *in nullo, &c. Cur. adv. vult. Han.* 97. 1. *Bro.* 123. *Mo. Int.* 282. 1. *San.* 73. 96. 2. *San.* 317. 342. *Bro. Met.* 263. 272. 2. *San.* 317. 342. *Cl. Aſſ.* 111. *Law. Err.* 134. 257. And judgment affirmed, *Clif.* 315. 322. 2. *San.* 223. And afterwards judgment affirmed in parliament, and record remitted. Error aſſigned, want of original in debt. *Scire facias* awarded to defendant. Appears, and pleads that on a certain day original was ſued out againſt plaintiff. *Certiorari* awarded to *cuſtos brevium*, who certifies plaintiff's writ. Plaintiff as before alledges errors. Defendant after imparlance pleads *in nullo, &c.* 2. *Bro.* 121. Errors aſſigned. *Scire facias* to hear errors awarded, *Ibid.* 123. Appearance, and plea *in nullo, &c.* 2. *Vet.* 291. Errors aſſigned. *Scire facias* awarded to bail to proſecute error. *Non miſit breve. Alias ſcire facias.* Appearance. Errors as before. Plea, *in nullo, &c. Cur. adv. vult.* 2. *Bro.* 122.

Judgment in C. B. in Ireland revoked by writ of error in Ireland, and that judgment revoked by error in England, and afterwards another writ of error in England to revoke error in the firſt judgment in C. B. in Ireland, *Re. Dec.* 358.

Certiorari directed to *cuſtos brevium* in C. B. to certify record of a fine, 2 *Bro.* 117. Anſwer thereto, with return of writ and record, *Ibid.* 118. To certify writ of privilege, *Clif.* 318.

Precept (it is commanded) to chief juſtice in Ireland, that by the king's writ he cauſe to be commanded to the ſheriff that *ſcire facias* defendant in error to be in England, &c. *Re. Dec.* 360.

Warrant of attorney on a writ of error, 1. *Bro.* 217. 327. *Re. Dec.* 391. *Bro. Met.* 264. Error aſſigned. *Certiorari* to juſtices. *Scire facias.* Return, and *certiorari* to *cuſtos brevium.* To return, *certiorari*, *Re. Dec.* 351.

Certiorari to chancellor of county palatine of Lancaſter, that it be commanded to the juſtices there to ſearch for original, &c. *Clif.* 324. To *cuſtos brevium* of C. B. *Re. Dec.* 284. To certify *venire facias, habeas corpus*, and *diſtringas. Ibid.* 367. 371. And return. And writ of enquiry of damages, &c, *Clif.* 325-329. As well to chief juſtice as to *cuſtos brevium, &c. Re. Dec.* 302. 324. *Law. Err.* 257. Return, *Ibid.* 252. *Bro. R.* 371. And *ſcire facias* to ſheriff, and return, *Ibid.*

Errors aſſigned. *Scire facias* againſt bail in error. Sheriff returns *nihil.* Appearance, and errors alledged as before. Plea, demurrer, and replication. *Cur. adv. vult.* Adjournment of the term. Releaſe of errors pleaded. Replication, *non eſt factum venire facias.* Verdict for defendant, and judgment affirmed, *Re. Dec.* 303. Errors aſſigned. *Scire facias.* One *nihil.* Two *nihils* by default made. Plaintiff alledges errors as before. *Cur. adv. vult. Ibid.* 243.

Errors aſſigned. *Scire facias.* Appearance. *Vicecomes non miſit breve.* Errors aſſigned, *de novo.* Plea, *in nullo, &c. cur. adv. vult.* Appearance. Second continuance. Demiſe of the queen before the day. Several continuances. Plaintiffs in error pray their writ may be quaſhed and another writ. Writ quaſhed, and leave to ſue out new writ. Second writ of error. Errors aſſigned as before. *Scire facias.* Return. Appearance, and plea. Releaſe of errors from W. A. *Puis darrein continuance*, and that W. R. did not die before trial, *modo et formâ*, and iſſue thereon. Plea by W. A. *non eſt factum* to the releaſe, and iſſue thereon. *Venire.* Return. *Diſtringas. Niſi prius.* Return, and *poſtea. Tales.* Verdict for plaintiff, that W. R. died *modo et formâ.* Verdict for defendant, to *non eſt factum, cur adv. vult.* Plea in abatement to the writ of error. Confeſſion by plaintiff, and writ quaſhed. Leave granted to ſue out third writ of error, and ſame errors aſſigned as before. *Scire facias.* Return. Appearance. Errors aſſigned as before. Plea by defendant. *Releaſe* by W. A. as before, and that W. R. died not before trial. Plea by W. A. *non eſt factum*, and iſſue. *Venire.* Return. *Diſtringas. Jurata. Niſi prius. Tales.* Verdict for plaintiff, that W. R. died before the trial. Verdict for defendant as to *non eſt factum.* Judgment, that the former judgment be reverſed as to three defendants, and that W. A. take nothing by the writ, 2. *Mo. Int.* 257. to 272.

Scire facias in *ejectment* after *writ of error* brought, and defendants plead that execution is not yet executed, and *ſcire facias* to defendants to ſhew cauſe, *quare non, &c. Nihil* returned. *Alias ſcire facias* and *nihil.* Judgment of *non prof.* of the writ of error. Writ of poſſeſſion awarded. *Scire facias* for damages. Writ of enquiry. Enquiry of meſne profits and waſte. Return, judgment for meſne profits and waſte. Coſts according to the ſtatute. And execution awarded, 2. *Mo. Int.* 255.

Errors aſſigned in the rendition of the judgment, and alſo of the execution on the *ſcire facias* thereon. *Scire facias* to hear the record. *Non miſit breve.* Appearance. Errors as before. Plea *in nullo, &c. cur. adv. vult.* Judgment af-

firmed in B. R. Errors assigned in parliament. Plea *in nullo, &c. cur. adv. vult.* Judgment affirmed, 2. *San.* 222.

Errors assigned by an infant on a *recovery*. Precept to the chancellor of the county palatine of Lancaster, that he command the sheriff *scire facias* defendant, and return thereon. Return to *scire facias* by sheriff. Errors as before. Plea *in nullo, &c. cur. adv. vult.* Plaintiff prays another *scire facias* to the chancellor to summon terre-tenants, &c. Return by chancellor, and also of *scire facias* by sheriffs. Appearance by some tenants, and others do not come. Errors as before. *Cur. adv. vult.* and judgment affirmed, 2. *San.* 92. *Thes. Bre.* 105. *Scire facias.* Appearance. Errors as before, *in nullo, &c. Ibid.*

Errors assigned on verdict in Lancaster. Appearance, *in nullo, &c. Dies datus* to hear errors. Appearance, *cur. ulterius adv. vult.* Several continuances. Judgment affirmed. Writ of error thereon in parliament, and there affirmed, 2. *San.* 247. In replevin, *scire facias non misit breve. Alias scire facias.* Appearance gratis, and plea *in nullo, &c.* immediately. *Cur. adv. vult.* and judgment affirmed, 2. *San.* 287.

Error in fact assigned in B. R. on judgment in C. B. Appearance without any *scire facias*, and pleads issuably. Plaintiff at *nisi prius* makes default, and judgment for defendant, 2. *San.* 332. Error assigned in B. R. Appearance without *scire facias*, and judgment affirmed, *Ibid.* 399. Defendant comes in the same term and assigns errors immediately, and *certiorari* to *custos brevium*, and no return. *Scire facias* awarded. Appearance. Errors as before. *In nullo, &c. cur. adv. vult.* Judgment reversed, and plaintiff confesses restitution on that, *Ibid.* 105.

In error before justices to examine errors from the hustings in London, there were two verdicts; one revoked, and judgment on the other, 2. *San.* 247. In B. R. on a judgment in *premunire*, defendant comes in by *habeas corpus*, and reversed, *Ibid.* 392. In B. R. *scire facias audiendum errores* awarded to the sheriff of Merioneth, in Wales, and no return. Appearance, and judgment affirmed in disseisin, and after writ of seisin awarded, and writ of enquiry of damages on occasion of the disseisin, and judgment on that, *Ibid.* 36. In B. R. *scire facias* to hear errors awarded, and no return. Errors assigned, and defendant joins, 1. *San.* 73.

Error by the heir in tail to reverse a common recovery in the county palatine of Lancaster, and assignment of infancy by the party suffering, &c. *Scire facias* to defendant. Sheriff returns *mortuus*, and *alias scire facias* against the heir, who appears, and pleads full age, and issue, *Thes. Bre.* 106.

Error assigned, that there was no writ of entry. *Certiorari* awarded to *custos brevium.* Return, no writ after a *scire facias* to hear errors is awarded to defendant and the terre-tenants, *Thes. Bre.* 109.

Entry on a writ of error where plaintiff in the same writ is in execution, who brings into court the condemnation money remaining in the hands of the chief clerk, *Han.* 134. When chief justice of C. B. *non misit breve*, and defendant prays a day, *Ibid.* On *scire facias*, *Ibid.* In error on false judgment. Errors assigned, *in nullo, &c.* Continuance by justices, and judgment affirmed, 2. *Mo. Int.* 265.

Writ of error on fine levied in Chester, *Clif.* 337. On judgment, and outlawry after judgment, *Ibid.* In prohibition, *Ibid.* Where chief justice of C. B. is changed, *Ibid.* As well in rendition of judgment as in award of execution on *scire facias*, *Law. Err.* 99. *Bro. R.* 370. 2. *San.* 214. 342. Return of writ of false judgment in an inferior court, *Clif.* 339. Entry of writ of false judgment, *Ibid.* 342. And *recordari facias* to justices of C. B. and *procedendo* thereon, *Ibid.* 345.

Error

Error in falſe judgment aſſigned, defendant makes defau't, *cur. adv. vult. Clif.* 347. Reſtitution awarded, 2. *T. Jud.* 137. Plaintiff ſays he delivered the writ, and defendant did not pay, and *alias* awarded under a penalty, *Ibid.* 138. Writ of reſtitution, and enquiry of iſſues and profits awarded, *Ibid.* 139. And enquiry of iſſues returned, *Ibid.* 140.

Habere facias poſſeſſionem awarded upon affirmance of a judgment in error of falſe judgment, 2. *T. Jud.* 267.

Errors aſſigned, and one writ to chief juſtice, and the other to *cuſtos brevium*, *Law. Err.* 58.

Error on fine levied. Plaintiff ſays cognizee is dead, and *ſcire facias* againſt the heir to hear errors. Return. Errors as before. Diminution alledged in the proclamation, and *certiorari* to chirographer. Judgment of reverſal, and *certiorari* to *cuſtos brevium*, that the fine be cancelled, *Law. Err.* 193. One defendant dies, *puis darrein continuance*, *ſcire facias* to heir and terre-tenant, *Clif.* 324.

Error aſſigned in county palatine of Lancaſter. Demurrer. Judgment for plaintiff in error by default, *Clif.* 313.

Certiorari to juſtices of Cheſter to certify the caption of a fine on *dedimus poteſtatem*, and return *cur. adv. vult. Clif.* 330. To the chancellor of the county palatine of Lancaſter to certify original, and warrant of attorney, &c. in ejectment, *Ibid.* 335. Precept to the chancellor of the county palatine of Lancaſter, that he commanded the ſheriff, &c. to a *ſcire facias*, *Ibid.* 332.

Elegit on a judgment at Cheſter removed into B. R. by writ of error, and there affirmed, *Clif.* 310.

Certiorari to chief juſtice of C. B. whether there is a record of forejudger of an attorney, *Clif.* 336. To *cuſtos brevium*, whether there be an original writ, and return, *Ibid.*

Fieri facias for damages for the delay and debt, and prior damages on a debt recovered in Cheſter, and judgment affirmed in B. R. *Clif.* 310. In treſpaſs on judgment affirmed in B. R. *Ibid.* 308.

Capias ad ſatisfaciendum out of B. R. on recovery in the hundred court. Judgment affirmed at Cheſter, and afterwards in B. R. at Weſtminſter, *Clif.* 308.

Scire facias after judgment affirmed againſt adminiſtrator, *Clif.* 309.

Fieri facias in caſe after a writ of error, *Clif.* 309.

III. JUDGMENTS. (*See* PROCEEDINGS THROUGHOUT, *ante.*)

Judgment that firſt judgment be affirmed, *Ra.* 296. *Co. Ent.* 228. 250. 264. 292. *Aſh.* 299. In an inferior court with coſts, *Co. Ent.* 292. In *audita querela* by terre-tenant againſt terre-tenant. Judgment affirmed, and writ of ſeiſin of lands extended, and reſtitution of iſſues thereon awarded. Return. Writ of enquiry *de novo* awarded for inſufficiency of the return, *Ibid.* 239.

Judgment affirmed againſt executor, and judgment on *ſcire facias de bonis propriis* reverſed, *Co. Ent.* 272.

Judgment reverſed, *Co. Ent.* 231. 296. 1. *Co.* 40. In a plea of land, *Ra.* 308. For plaintiff on demurrer to errors aſſigned, *Jud.* 341. *Aſh.* 299. By reaſon of minority of the tenant, *Jud.* 293. Judgment to quaſh a writ in *formedon* after ſpecial verdict reverſed. *Cur. adv. vult.* on the ſpecial verdict. Judgment for demandant, *Co. Ent.* 255.

ACTIONS MIXED.

EJECTMENT.

(PROCEEDINGS IN.)

Trinity Term, 29. Geo. III.

Declaration in ejectment in B. R. by bill, on three demiſes.

DOE *againſt* ROE. } SUSSEX, to wit. John Doe complains of Richard Roe, being, &c.; for that whereas one Joſeph M. heretofore, to wit, on, &c. at, &c. had demiſed to the ſaid John Doe one meſſuage, one yard, one backſide, one orchard, one garden, &c. &c. ſituate in the pariſh and county aforeſaid, to have and to hold the ſaid tenements, with the appurtenances, unto the ſaid John Doe and his aſſigns, from the ſeventeenth day, &c. from thence next enſuing, and fully to be complete and ended: And alſo for that whereas one Elizabeth Harvey heretofore, to wit, on the ſaid eighteenth day of, &c. at the pariſh, &c. had demiſed to the ſaid John Doe one other meſſuage, one other yard, &c. &c. ſituate in the pariſh aforeſaid, in the county aforeſaid, to have and to hold the ſaid tenements laſt-mentioned, with the appurtenances, to the ſaid John Doe and his heirs and aſſigns, from the ſeventeenth day of, &c. &c. from thence next enſuing, and fully to be complete and ended: And alſo for that whereas one, &c. heretofore, to wit, on the ſaid eighteenth day of May, &c. at the pariſh, &c. had demiſed unto the ſaid John Doe one other meſſuage, and one other yard, &c. &c. ſituate in the pariſh aforeſaid, in the county aforeſaid, to have and to hold the ſaid laſt-mentioned tenements, with the appurtenances, to the ſaid John Doe and his aſſigns, from the day, &c. from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid ſeveral demiſes the ſaid John Doe entered into the ſeveral tenements and appurtenances ſo to him reſpectively demiſed as aforeſaid, and was thereof poſſeſſed, until the ſaid Richard Roe afterwards, and during the continuance of the ſaid ſeveral terms and intereſt of the ſaid John Doe in the ſaid ſeveral tenements, with the appurtenances, to wit, on the eighteenth day, &c. entered with force and arms, &c. upon the ſaid ſeveral tenements, with the appurtenances, and in and upon the poſſeſſion of the ſaid John Doe, and ejected him from his ſaid ſeveral premiſes; and other injuries to the ſaid John Doe then and there did, againſt the peace of our lord the now king, and to the damage of the ſaid John Doe of ten pounds, and therefore he brings ſuit, &c.

1ſt Count, on the demiſe of the truſtee.

2d Count, on demiſe of the dowager.

3d Count, on demiſe of the minor.

MR.

Notice in ejectment.

MR. IRELAND,

I am informed that you are in poſſeſſion of or claim title to the premiſes in this declaration of ejectment mentioned, or ſome part thereof, and I, being ſued in the action as a caſual ejector, and having no claim or title to the ſame premiſes, do adviſe you to appear next Michaelmas term in his majeſty's court of king's bench at W. by ſome attorney of that court, and then and there by rule of the ſame court to cauſe yourſelf to be made defendant in my ſtead, otherwiſe I ſhall ſuffer judgment to go againſt me, and you will be turned out of poſſeſſion.

I am your friend,

R. ROE.

Caſe on the above declaration for opinion, how to lay demiſes where there is a minor, a truſtee, and dowager. Whether notice to quit is neceſſary to be given to an under-tenant who holds over after the original tenant has quitted? On whom ſuch notice is to be ſerved where ſuch under-tenant is a bankrupt? Whether ſuch under-tenant would be liable to double rent under the ſtatute?

COSENS was leſſee of a meſſuage, yard, backſide, and premiſes, in the pariſh, &c. for a term of years which expired the 16th of May laſt; at Lady-day 1788, he let the premiſes to Thomas Ireland, who has ever ſince occupied them as his undertenant. Ireland is now become a bankrupt, and the landlord wants to let the premiſes to another perſon; but Ireland became determined to continue the occupation till he is forced to quit, and the aſſignees do not care to interfere in the matter. The landlord is truſtee for a young man who is a minor, and has power to ſell the eſtate, except the dower of teſtator's widow, which is Mrs. Harvey, to whom they have paid rent. The leaſe expiring on the ſixteenth day of May laſt, and no further agreement or rent having been made or paid ſince, I apprehend no notice is neceſſary to be given to Coſens or his under-tenant to quit, but that a declaration in ejectment may be delivered immediately. As Coſens is a tenant at ſufferance, Coſens is deſirous that Ireland ſhould be compelled to quit, and will not enter appearance to the ejectment. J. M. is the name of the truſtee of this houſe; E.H. the widow entitled to dower; Coſens, the tenant; Thomas Ireland, the undertenant, now a bankrupt, &c.; Crokes and Chalmot, aſſignees under the commiſſion.—If you think with me that an ejectment might be maintained without notice, pleaſe to fill up a declaration with the proper parties and ſend me, and let me know if the declaration ſhould be delivered to both aſſignees, and one of them lives at Briſtol. The aſſignee at Briſtol ſends me word that they ſhall part the rent to Michaelmas and then leave the premiſes to the bankrupt. But as the bankrupt took them at Lady-day, can the aſſignees diſcharge themſelves at that period? We do not mean to charge double rent of Coſens, and the undertenant is not liable to it.

OPINION.—I have peruſed the caſe on which this action is founded, and am of opinion that in order to prevent any ſurpriſe or miſcarriage in a more advanced ſtate of the proceedings, on account of the actual veſting of the legal eſtate in the premiſes in queſtion it will be prudent to lay as many demiſes in the declaration as there are parties who have an intereſt. For this reaſon I have declared upon the demiſe of the truſtees, the minor, and the dowager; ſo that whichſoever of them has the legal eſtate the plaintiff muſt ſucceed.

A copy of the declaration muſt be ſerved upon the tenant *in poſſeſſion only*, whoever he is, and he will be bound under the penalty of three years improved rent of the premiſes to give notice thereof forthwith to his landlord, under the ſtatute of 11. Geo. 2. c. 19. ſ. 12. Now it appears by the caſe that *Ireland* is the only tenant in poſſeſſion, therefore it is not neceſſary to deliver copies of the declaration either to Coſens or Ireland's aſſignees. Notice to quit before ejectment brought is only neceſſary *where ſuch notice is to determine the term*; but here Coſens's time being expired, and no rent received ſince, nor any act done to juſtify the poſſeſſion of Ireland or of Coſens, the continuance in poſſeſſion of Ireland is in my opinion tortious, and he is liable to be ejected without any previous notice to quit. If any benefit could ariſe by giving Ireland notice to quit or pay double rent, I ſhould think,

if ſuch was given, and he ſhould continue and hold over, he would be liable to pay at the rate of double the yearly value, equally with Coſens or any other tenant holding over under the like circumſtances, by force of the ſtatute 4. Geo. 2. c. 28. ſ. 1. which extends to ſub-tenants.

THOMAS BARROW.

Michaelmas Term, 30. Geo. III.

STAFFORDSHIRE, to wit. John Doe, late of, &c. was attached to anſwer Richard Roe in a plea; wherefore with force and arms, &c. he entered into ten meſſuages, ten cottages, &c. &c. ſituate, &c. which Mary Beebee, deceaſed, in her lifetime demiſed to the ſaid Richard Roe for a term which is not yet expired, and ejected him from his ſaid farm: And alſo wherefore with force and arms, &c. the ſaid John Doe entered into one undivided ſixth part, the whole into ſix equal parts to be divided of and in ten other meſſuages, ten other cottages, &c. &c. ſituate, &c. which J. B. demiſed to the ſaid Richard Roe, for a term which is not yet expired, and ejected him from his ſaid farm: And alſo wherefore with force and arms, &c. the ſaid J. D. entered into one other undivided ſixth part, the whole into ſix equal parts to be divided of and in the ſaid laſt-mentioned ten meſſuages, ten cottages, &c. &c. ſituate, &c. which John James demiſed to the ſaid Richard Roe, for a term which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm: And alſo wherefore with force and arms, &c. the ſaid John Doe entered into one other undivided ſixth part the whole into ſix equal parts to be divided of and in the ſaid laſt-mentioned ten meſſuages, &c. &c. in the ſaid pariſh, &c. which Henry Parks demiſed to the ſaid Richard Roe, for a term which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm: And alſo wherefore the ſaid John Doe with force and arms, &c. entered into one other undivided ſixth part. the whole into ſix equal parts to be divided in the ſaid laſt-mentioned ten meſſuages, &c. &c. in the ſaid pariſh, &c. which Edward Parks demiſed to the ſaid Richard Roe, for a term which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm: And alſo wherefore with force and arms, &c. the ſaid John Doe entered into one other undivided ſixth part, the whole into ſix equal parts to be divided of and in the ſaid laſt-mentioned ten meſſuages, &c. &c. in the ſaid pariſhes, &c. which Edward Robinſon demiſed to the ſaid Richard Roe, for a term of years which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm: And alſo wherefore with force and arms, &c. the ſaid John Doe entered into one other undivided ſixth part, the whole into ſix equal parts to be divided in the ſaid laſt-mentioned ten meſſuages, &c. &c. in the ſaid pariſh, &c. which Iſaac Thompſon, deceaſed, in his lifetime, demiſed to the ſaid Richard Roe, for a term which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm: And alſo wherefore with force and arms, &c. the ſaid John Doe entered into the ſaid laſt-mentioned undivided ſixth part, the whole, &c. of and in the

Declaration in ejectment in B. R. by original on eight demiſes by tenants in common, and opinion thereon.

2d Count.

3d Count.

4th Count.

5th Count

6th Count.

7th Count.

8th Count.

the ſaid laſt-mentioned ten meſſuages, &c. &c. Abraham Thompſon demiſed to the ſaid Richard Roe, for a term which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm, and other wrongs to the ſaid Richard Roe there did, to the great damage of the ſaid Richard Roe, and againſt the peace
1ſt Count. of our lord the now king, &c.; and thereupon the ſaid Richard Roe, by A. B. his attorney, complains, that the ſaid Mary Beebee, heretofore, in her lifetime, to wit, on, &c. at, &c. had demiſed to the ſaid Richard Roe the tenements firſt above-mentioned, with the appurtenances, to have and to hold the ſame to the ſaid Richard Roe and his aſſigns from, &c. and during and unto the full end and term of twelve years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid demiſe the ſaid Richard Roe entered into the ſaid tenements, with the appurtenances, and was poſſeſſed thereof; and being ſo poſſeſſed thereof, the ſaid John Doe afterwards, to wit, on, &c. with force and arms, &c. entered into the ſame tenements, with the appurtenances, which the ſaid M. B. hath demiſed to the ſaid Richard Roe in manner aforeſaid, which is not yet expired, and
2d Count. ejected the ſaid Richard Roe out of the ſaid farm: And alſo for that the ſaid John B. heretofore, to wit, on, &c. at, &c. had demiſed unto the ſaid Richard Roe the ſaid undivided ſixth part, the whole into ſix equal parts to be divided of and in the ſaid tenements ſecondly above-mentioned, with the appurtenances, to have and to hold the ſame laſt-mentioned demiſed premiſes, with the appurtenances, unto the ſaid Richard Roe and his aſſigns, from, &c. for and during, and unto the full end and term of twelve years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid demiſe the ſaid Richard Roe entered upon the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, and was poſſeſſed thereof; and the ſaid R. R. being ſo poſſeſſed thereof, he the ſaid John Doe afterwards, to wit, on the ſaid firſt day of June, in the ſaid year of Our Lord 1788, with force and arms, &c. entered into the ſaid laſt-mentioned premiſes, with the appurtenances, which the ſaid John Beebee had demiſed to the ſaid Richard Roe in manner aforeſaid, for the term aforeſaid, which is not yet expired, and ejected the ſaid
3d Count. Richard Roe out of his ſaid laſt-mentioned farm: And alſo for that the ſaid John James heretofore, to wit, on, &c. at, &c. had demiſed unto the ſaid Richard Roe the ſaid undivided ſixth part, the whole into ſix equal parts to be divided of and in the ſaid tenements thirdly above-mentioned, with the appurtenances, to have and to hold the ſame laſt-mentioned demiſed premiſes, with the appurtenances, to the ſaid Richard Roe and his aſſigns, from the firſt day of May then laſt paſt, for and during, and unto the full end and term of twelve years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid Richard Roe entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, and was poſſeſſed thereof; and the ſaid Richard Roe being ſo poſſeſſed thereof, the

the ſaid John Doe afterwards, to wit, on the ſaid, &c. with force and arms, &c. entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, which the ſaid John James had demiſed to the ſaid Richard Roe in manner aforeſaid, for the term aforeſaid, which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm: And alſo for that the ſaid Henry Parker heretofore, to wit, on the ſaid, &c. at, &c. had demiſed to the ſaid Richard Roe the ſaid undivided ſixth part, the whole into ſix equal parts to be divided of and in the ſaid tenements fourthly above-mentioned, with the appurtenances, to have and to hold the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, to the ſaid Richard Roe and his aſſigns, from, &c. for and during, and unto the full end and term of twelve years from thence next enſuing and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid Richard Roe entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, and was poſſeſſed thereof; and the ſaid Richard Roe being ſo poſſeſſed thereof, the ſaid John Doe afterwards, to wit, on the ſaid firſt day, &c. &c. with force and arms, &c. entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, which the ſaid Henry Parks had demiſed to the ſaid Richard Roe in manner aforeſaid, for the term aforeſaid, which is not yet expired, and ejected the ſaid Richard Roe from his ſaid laſt-mentioned farm: And alſo for that the ſaid Edward Parks heretofore, to wit, on, &c. &c. had demiſed, &c. &c. &c. [the ſame as before]: And alſo for that the ſaid Edward Robinſon heretofore, to wit, on, &c. &c. had demiſed, &c. &c. &c. [the ſame as before]: And alſo for that the ſaid Iſaac Thompſon, deceaſed, heretofore in his lifetime, on, &c. had demiſed to the ſaid Richard Roe the ſaid undivided ſixth part, the whole into ſix equal parts to be divided of and in the ſaid tenements ſeventhly above-mentioned, with the appurtenances, to have and to hold the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, to the ſaid Richard Roe and his aſſigns, from the ſaid thirty-firſt day of May, &c. for and during, and unto the full end and term of twelve years from thence next enſuing and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid Richard Roe entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, and was poſſeſſed thereof; and the ſaid Richard Roe being ſo poſſeſſed thereof, the ſaid John Doe afterwards, to wit, on the firſt day of June, &c. with force and arms, &c. entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, which the ſaid Iſaac Thompſon, deceaſed, in his lifetime, had awarded for the term aforeſaid, which is not yet expired, and ejected the ſaid Richard Roe out of his ſaid laſt-mentioned farm: And alſo for that the ſaid Abraham Thompſon heretofore, to wit, on the . . day of, &c. &c. had demiſed to the ſaid Richard Roe the ſaid laſt-mentioned undivided ſixth part, the whole into ſix equal parts to be divided of and in the ſaid tenements eighthly above-mentioned, with the appurtenances, to have

4th Count.

5th Count.

6th Count.

7th Count, on demiſe of Thompſon from 31ſt May for twelve years.

8th Count, two days after the deceaſe of Iſaac Thompſon.

have and to hold the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, to the ſaid Richard Roe and his aſſigns from the day of, &c. &c. for and during and unto the full end and term of twelve years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid Richard Roe entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, and was poſſeſſed thereof until the ſaid John Doe afterwards, to wit, on the day of, &c. with force and arms, &c. entered into the ſaid laſt-mentioned demiſed premiſes, with the appurtenances, which the ſaid Abraham Thompſon had demiſed unto the ſaid Richard Roe in manner aforeſaid, for the term aforeſaid, which is not yet expired, and ejected the ſaid Richard Roe out of his ſaid laſt-mentioned farm, and other wrongs to the ſaid Richard Roe then and there did, to the great damage of the ſaid Richard Roe, and againſt the peace of our lord the now king; wherefore the ſaid Richard Roe ſaith he is injured, and hath ſuſtained damage to the value of ten pounds, and therefore he brings his ſuit, &c.

The day following the death.

The day firſt-mentioned in this Count.

T. BARROW.

Opinion to the above declaration.

I have peruſed the ſtate of the facts in this caſe, and have re-drawn the declaration according to my own idea of the plaintiff's caſe, and to meet the wiſh of the parties to recover the whole of the meſne profits in caſe of a verdict in their favour. As tenants in common cannot join in one demiſe, their eſtates being ſeveral and diſtinct, it becomes neceſſary to inſert ſix ſeveral Counts to include the whole of their ſix undivided ſhares; but as great part of the meſne profits of the whole eſtate accrued due to Mrs. Beebee, in her lifetime, and of Iſaac Thompſon's ſixth part ſince her death in his lifetime, it ſtruck me as likewiſe requiſite and neceſſary to add Counts upon their ſeveral demiſes, in order to recover the whole of the meſne profits; for without theſe Counts the intermediate times in which the rent of the eſtate during theſe periods toſe, will neceſſarily form a chaſm upon the record upon which no damages can be given at common law, can by a ſubſequent action for meſne profits, inaſmuch as the day of the demiſe of each perſon's intereſt cannot be laid anterior to the commencement of that intereſt: but with reſpect to all the tenants in common their title did not accrue till Mrs Beebee's death, for the laſt three years of her life, that is from 83 to 86, John Parks the tenant in poſſeſſion, received the profits of the whole eſtate, which, in caſe of a verdict againſt him, he will have no right to retain. And as to Abraham's ſixth ſhare of the eſtate devolving to him upon the death of his father Iſaac, that did not ſpring till after the deceaſe of the latter. Thomas Parks has likewiſe received the profits of Iſaac's eſtate under the ſame defective title. Now by thus connecting the title of the plaintiff by the inſertion of the ſecond Count laſt noticed I preſume I have enabled him to uſe the judgment in this ejectment (if he recovers) as complete evidence of his right to all the meſne profits in a ſubſequent action of treſpaſs for them. That the perſon repreſenting Mrs. Beebee and Iſaac Thompſon will be entitled to the rents of their eſtate accrued in their reſpective lifetimes, is no objection I conceive to the plaintiff's right to recover them, becauſe he will appear upon the record to be legally entitled to the whole, and when recovered theſe repreſentatives, and the preſent plaintiff may divide them according to their reſpective ſhares. I did not think it worth while to declare in the name of Abraham Thompſon's next friend on account of his infancy, becauſe a demiſe by an infant is good to try a title in ejectment if unobjected to by the adverſe party; and it is not likely that the objection ſhould be taken here, as the defendant will be ſufficiently ſevered in his coſts by the other defendants, which is the only reaſon for objecting at all; but if he does object it may be done then as well as now.

T. BARROW.

CASE for OPINION.

How far one tenant in common is bound by the act of the other in letting the premiſes without his conſent? and how to proceed to recover his money by entry or ejectment?

A. B. and C. D. are ſeverally entitled to an eſtate in fee of an eſtate in, &c. the tenant to which at Lady-day laſt, by the permiſſion of C. D. but without the knowledge or conſent of A. B. or his agent, quitted the ſame, and let another perſon into poſſeſſion thereof as tenant. A. B. is deſirous to have a tenant to the ſame eſtate that he approves, which is not the caſe in reſpect of the perſon who now occupies the eſtate, and would therefore be adviſed what ſtep ſhe is to take either to cauſe the preſent occupier to quit, or to enable him to name another perſon jointly to ſtock the farm with him if that can be effected; and if ſo, *what notice is requiſite to be given, and to whom? whether to the tenant who quitted at Lady-day laſt or to the perſon who now occupies the farm? or to both of them? and what ſuch notice ſhould contain, and whether ſuch notice, being ſubſcribed by the agent, to wit, A. B. will be ſufficient to ground any proceedings that may be neceſſary afterwards to be taken?* John Caſe, the preſent occupier, who kept the doors and gates belonging to the farm locked after divers notices being given him either to quit or to admit a tenant to ſtock the farm jointly with him, can the tenant approved of by A. B. or can any other perſon, and whom, juſtifying forcing the locks? or what other remedy has A. B. or his tenant in that caſe? And if in putting his ſtock on the farm the ſame ſhould be impounded or carried off by the preſent occupier, what ſteps would you adviſe to be taken, and by whom, to recover ſatisfaction for the injury? and upon the whole of the caſe how would you adviſe A. B. to act herein, as he is determined not to admit the preſent occupier to continue his tenant if it can be avoided?

OPINION.—It does not appear from the ſtatement of this caſe what intereſt the former tenant had in the premiſes, nor when that intereſt is determined. If it be not, A. B. has no remedy againſt the preſent, who may juſtify his poſſeſſion of the whole premiſes under the former tenant. But ſuppoſing the intereſt of the former tenant is determined, I am of opinion that A. B. and C. D. as tenants in common have each of them equal rights to enter and occupy the land themſelves, or to let their reſpective moieties to under-tenants; and therefore if A. B. is not ſatisfied with C. D.'s tenant, he may, without giving any previous notice either to the former or preſent tenant, let his moiety of land to any other perſon, who will have a right under that letting to enter and ſtock it; or if he ſhould be oppoſed in entering, or ſhould be expelled from the poſſeſſion after he has entered, he may maintain an ejectment; it being clearly ſettled that although one tenant in common take the whole profits the other hath no remedy by law againſt him for taking the whole profits in an ejectment: yet if he drive out of the land any cattle of the other tenant in common, or do not ſuffer him to enter or occupy the land, this is an ejectment or expulſion, whereupon he may have an ejectment maintained for the one moiety and recover damages. See Coke's Comment, 332. 12. Mod. 567. and 3. Wilſ. 18. ——— In caſe the preſent occupier ſhould keep the gates and doors belonging to the farm locked, A. B. or his tenant will have a right to force them, ſo as it can be done peaceably, but he muſt not uſe any perſonal violence or be guilty of a breach of the peace. And if on putting on his ſtock the ſame ſhould be driven off and impounded he will be entitled to maintain treſpaſs or replevin; and if there be a complete ouſter he may alſo maintain an ejectment.

THOMAS BARROW.

FURTHER CASE.—The former tenant was only ſuch by parol agreement from year to year, and has occupied the farm under ſuch agreement for a number of years. You will pleaſe therefore to conſider this caſe and give your opinion reſpecting the notice neceſſary to be given in order to enable A. B. to recover the poſſeſſion of his moiety, and to appoint a tenant of his own thereto.

OPINION.—Taking it for granted that the intereſt of the former tenant was determined upon his quitting the premiſes in favour of the preſent tenant, and that A. B. had never received rent from the latter, or otherwiſe acknowledged him to be his tenant. I am of opinion that no notice is neceſſary to be given in order to enable A. B. to recover the poſſeſſion

ſeſſion of his moiety; and indeed that ſuch a notice would be improper, and prevent him from proceeding by ejectment till the expiration of it; and even then ſuppoſing the latter to have been joint, it might be doubtful how far a ſeparate notice from one of the tenants in common would be regular.

THOMAS BARROW.

Declaration for meſne profits.

MIDDLESEX. For that whereas the ſaid A. on the ſixth of day of December, in the ſecond year of the reign of our ſaid lord the king, with force and arms broke and entered into fourteen meſſuages, fourteen cottages, two ſtables, &c. with the appurtenances of the ſaid John, ſituate, lying, and being in the pariſh of, &c. and ejected, expelled, put out, and amoved the ſaid John from the poſſeſſion, uſe, occupation, and enjoyment of his lands and tenements aforeſaid, and kept and continued him ſo ejected, expelled, put out, and amoved from thence, and out of the uſe, occupation, and enjoyment thereof for a long time, to wit, from thenceforth until the fourth day of December, in the year of Our Lord 1762, and during all that time he took, had, and received the whole rents, iſſues, and profits thereof to his own uſe, being of great value, to wit, of the value of twenty-eight pounds, whereby the ſaid John during all that time loſt the whole profits, benefit, and advantage of the lands and tenements aforeſaid, and was forced to lay out and expend, and did neceſſarily lay out and expend a large ſum of money, to wit, the ſum of twenty pounds, in and about the recovery and obtaining of his poſſeſſion of his lands and tenements aforeſaid from the ſaid A.; and then and there did other wrongs to the ſaid John, to the great damage of the ſaid John, and againſt the peace, &c.; and whereupon, &c.; and therefore, &c.

Entry of a *poſtea* in ejectment, where one iſſue was found for defendant, and the other againſt her, with a writ of poſſeſſion for the term recovered on that iſſue and *capias ſatisfaciendum* for the coſts, &c.

MIDDLESEX, ——. Richard Roe, on the ſeveral demiſes of Giles Powell, John Naſh, and Robert Spoules, againſt Elizabeth Scott. [After the warrants of attorney (which were in a plea of *treſpaſs and ejectment of farm*), the iſſue and award of *venire*, the entry proceeded as follows]: Afterwards, the proceſs aforeſaid between the parties aforeſaid of the plea aforeſaid is continued by the jury thereof being reſpited before the lord the king until the morrow of the Holy Trinity, whereſoever, &c. unleſs the right honourable William, earl of Mansfield, his majeſty's chief juſtice aſſigned to hold pleas before the king himſelf, ſhall firſt come on Tueſday, the ſixth of May, at Weſtminſter Hall, in the ſaid county of Middleſex, according to the form of the ſtatute in ſuch caſe made and provided, for default of the jurors, becauſe none of them did appear; at which day, before the lord the king at Weſtminſter, comes as well the ſaid Richard by his ſaid attorney as the ſaid Elizabeth by her ſaid attorney; and the ſaid chief juſtice, before whom the ſaid iſſue was tried, hath ſent hitherto his record before him had in theſe words, to wit: Afterwards, that

Poſtea.

Afterwards, that is to say, on the day and at the place within-mentioned, before the right honourable William, earl of Mansfield, chief justice within-named, John Way, gentleman, being associated to the said chief justice according to the form of the statute in such case made and provided, come as well the within-named Richard as the within-named Elizabeth by their attornies within contained, and the jurors of the jury whereof mention is within named, being summoned, likewise come, who to say the truth of the within contents being chosen, tried, and sworn, upon their oath say, as to the trespass and ejectment in the tenements first within-mentioned, and in the said declaration expressed to have been demised to the said Richard by the said G. Bowell and John N. with the appurtenances, that the said Elizabeth is not guilty thereof, as the said Elizabeth hath within in pleading alledged; and as to the trespass and ejectment in the tenements secondly within mentioned, and in the said declaration expressed to have been demised to the said Richard by the said Robert Sprutes, with the appurtenances, the said jurors upon their oath aforesaid say, that the said Elizabeth is guilty thereof in manner and form as the said Richard hath within complained against her, and they assess the damages of the said Richard by reason of the trespass and ejectment aforesaid, besides his costs and charges by him about his suit in this behalf expended to one shilling, for those costs and charges to forty shillings; therefore it is considered, that the said Richard do recover against the said Elizabeth his term aforesaid yet to come and unexpired of and in the said tenements secondly above-mentioned in the said declaration expressed to have been demised to the said Richard by the said Robert Sprutes, with the appurtenances, and the damages, costs, and charges by the jurors aforesaid in manner and form aforesaid assessed, and also pounds for the increase of his said costs and charges to the said Richard at his request by the said court now here adjudged, which said damages, costs, and charges in the whole amount to pounds: And the said Richard in mercy for his false complaint against the said Elizabeth, as to the trespasses and ejectment mentioned in the said tenements in the said declaration first above mentioned, whereof the said Elizabeth is by the jurors aforesaid in form aforesaid, and that the said Elizabeth go thereof without a day, &c.; and upon this the said Richard prays the writ of the lord the king to be directed to the sheriff of the said county, to cause him to have full possession of his term aforesaid yet to come and unexpired of and in the said tenements secondly above-mentioned, and in form aforesaid recovered, and it is granted to him returnable before the lord the king on wheresoever the said lord the king shall then be in England.

Judgment signed May 1783.

Mercy.

GEORGE THE THIRD, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the sheriff of Middlesex, greeting: Whereas Richard Roe lately in our court before us by our writ, and by the judgment of the said court recovered against Elizabeth Scott, late of West-

Writ of possession and *capias satisfaciendum* for costs.

minſter, in your county, widow, his term yet to come and unexpired of and in one meſſuage, one ſtable, one outhouſe, one garden, and ten acres of land, with the appurtenances, in the ſeveral pariſhes of St. Margaret, Weſtminſter, and of St. George, Hanover Square, in your county, which Robert Sponks, on the twenty-ninth of March, in the twenty-eighth year of our reign, had demiſed to the ſaid Richard, to hold from the twenty-fifth of March then inſtant to the full end and term of ſeven years then next following, and fully to be complete and ended; by virtue of which demiſe the ſaid Richard entered into the ſame tenements, with the appurtenances, and was poſſeſſed thereof; and being ſo poſſeſſed, the ſaid Elizabeth afterwards, that is to ſay, on the thirtieth day of March, in the twenty-eighth year aforeſaid, with force and arms entered into the ſaid tenements, with the appurtenances, and ejected the ſaid Richard out of his ſaid farm, his ſaid term not being then or yet expired, whereof the ſaid Elizabeth is convicted, as appears to us of record; therefore we command you, that without delay you cauſe the ſaid Richard to have poſſeſſion of his ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, and in what manner you ſhall have executed this our writ do you make appear to us in three weeks from the day of the Holy Trinity whereſoever we ſhall then be in England: we likewiſe command you, that you take the ſaid Elizabeth, if ſhe be found in your bailiwick, and ſafely keep her ſo that you may have her body before us on the day aforeſaid, whereſoever, &c. to ſatisfy the ſaid Richard pounds for the damages which he has ſuſtained as well by reaſon of the treſpaſs and ejectment aforeſaid as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid Elizabeth is alſo convicted, as appears to us of record, and have you then there this writ: Witneſs William, earl of Mansfield, at Weſtminſter, the twenty-third of May, in the twenty-eighth year of our reign.

S. MARRYAT.

Declaration in treſpaſs and ejectment, under ſeveral demiſes, and by different perſons at different times.

KENT, to wit. Charles Ward, late of Maidſtone, in the county of Kent, eſquire, John Luck, late of the ſame place, yeoman, and Thomas Howard, late of the ſame place, yeoman, were attached to anſwer unto John Denn in a plea; wherefore with force and arms they entered into one meſſuage, two ſtables, two barns, two gardens, two curtilages, eight acres of land, eight acres of meadow, and eight acres of paſture, with the appurtenances, in the pariſh of Weſterham, in the ſaid county, which Richard Hoddeſden demiſed to the ſaid John Denn for a term which is not yet expired, and ejected him from his ſaid farm; and alſo wherefore with force and arms they entered into one other meſſuage, two other ſtables, two other barns, two other gardens, two other curtilages, eight other acres of land, eight other acres of meadow, and eight other acres of paſture, with the appurtenances, in the ſaid pariſh of Weſterham, in the ſaid county, which

which Thomas Hoddeſden demiſed to the ſaid John Denn for a term which is not yet expired, and ejected him from his ſaid laſt-mentioned farm §: And alſo wherefore with force and arms they entered into one other meſſuage, &c. with the appurtenances, in the ſaid pariſh of W. in the ſaid county, which the ſaid *Richard Hoddeſden* demiſed to the ſaid John Denn for a term which is not yet expired, and ejected him from his ſaid laſt-mentioned farm: And alſo wherefore with force and arms they entered into one other meſſuage, &c. with the appurtenances, in the ſaid pariſh of W. in the ſaid county, which the ſaid *T. Hoddeſden* demiſed to the ſaid John Denn for a term which is not yet expired, and ejected him from his ſaid laſt-mentioned farm. [The recital of the writ as to the fifth and ſixth Counts is a mere repetition of what follows this mark above §], and other wrongs to him did, againſt the peace of our lord the now king, and to the great damage of the ſaid John Denn; and thereupon the ſaid John Denn, by Henry Holt his attorney, complains, that whereas the ſaid Richard Hoddeſden, on the tenth of October A. D. 1768, at the ſaid pariſh of W. in the ſaid county, had demiſed to the ſaid J. D. the tenements firſt above-mentioned with the appurtenances, to have and to hold the ſame tenements, with the appurtenances, to the ſaid J. D. and his aſſigns, from the ninth of October to the full end and term of thirty-one years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid demiſe the ſaid John D. entered into the ſaid tenements firſt above-mentioned, with the appurtenances, and was thereof poſſeſſed, and being ſo poſſeſſed thereof the ſaid Charles W. John Luck, and Thomas Howard afterwards, to wit, on the ſaid tenth of October in the year aforeſaid, with force and arms entered into the ſaid tenements firſt above-mentioned, with the appurtenances, which the ſaid Richard Hoddeſden demiſed to the ſaid John D. in manner aforeſaid for the term aforeſaid, which is not yet expired, and ejected him from his ſaid farm: And alſo that whereas the ſaid Thomas Hoddeſden, on the ſaid tenth of October, A.D. aforeſaid, at the ſaid pariſh of W. in the ſaid county, had demiſed to the ſaid John D. the ſaid tenements ſecondly above mentioned, with the appurtenances, to have and to hold the ſame tenements, with the appurtenances, to the ſaid John D. and his aſſigns from the ninth of October aforeſaid to the full end and term of thirty-one years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid John Denn entered into the ſaid tenements ſecondly above-mentioned, with the appurtenances, and was thereof poſſeſſed; and being ſo poſſeſſed thereof, the ſaid Charles W. John Luck, and Thomas H. afterwards, to wit, on the ſaid tenth of October A. D. aforeſaid, with force and arms entered into the ſaid tenements ſecondly above-mentioned, with the appurtenances, which the ſaid Thomas Hoddeſden demiſed to the ſaid John D. in manner aforeſaid for the term laſt aforeſaid, which is not yet expired, and ejected him from his ſaid laſt-mentioned farm: And alſo that whereas the ſaid *Richard Hoddeſden* on the *ſixteenth* "twelfth"

day of November A. D. 1777 "1787," at the ſaid pariſh of W. in the ſaid county, had demiſed to the ſaid John D. the ſaid tenements *thirdly* "fifthly" above-mentioned, with the appurtenances, to have and to hold the ſame tenements, with the appurtenances, to the ſaid John D. and his aſſigns from the *fifteenth*" "eleventh" day of November "laſt" aforeſaid to the full end and term of twenty-one years from thence next enſuing and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid John D. entered into the ſaid tenements *thirdly* "fifthly" above-mentioned, with the appurtenances, and was thereof poſſeſſed; and being ſo poſſeſſed thereof, the ſaid Charles W. John L. and Thomas H. afterwards, to wit, on the ſaid ſixteenth "twelfth" day of November A. D. laſt aforeſaid, with force and arms entered into the ſaid tenements *thirdly* "fifthly" above-mentioned, with the appurtenahces, which the ſaid Richard Hoddeſden demiſed to the ſaid John Denn in manner aforeſaid, for the term laſt aforeſaid, which is not yet expired, and ejected him from his ſaid laſt-mentioned farm: And alſo that whereas the ſaid Thomas Hoddeſden, on the ſaid *ſixteenth* "twelfth" day of November A. D. laſt aforeſaid, at the ſaid pariſh of W. in the ſaid county, had demiſed to the ſaid John Denn the tenements *fourthly* "laſtly" above-mentioned, with the appurtenances, to have and to hold the ſame tenements, with the appurtenances, to the ſaid John D and his aſſigns from the *fifteenth* "eleventh" day of November "laſt" aforeſaid, to the full end and term of twenty-one years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid John D. entered into the ſaid tenements *fourthly* "laſtly" above mentioned, with the appurtenances, and was poſſeſſed thereof, and being ſo thereof poſſeſſed, the ſaid Charles W. John L. and Thomas H. afterwards, to wit, on the ſaid *ſixteenth* "twelfth" day of November A. D. laſt aforeſaid, with force and arms entered into the ſaid tenements *fourthly* "laſtly" above-mentioned, with the appurtenances, which the ſaid Thomas Hoddeſden demiſed to the ſaid John D. in manner aforeſaid for the term laſt aforeſaid, which is not yet expired, and ejected him from his ſaid laſt-mentioned farm [The fifth and ſixth Counts were exactly like the third and fourth, except what is in Italic, and inſerting what is within inverted commas], and other wrongs to him did, againſt the peace of our lord the now king; wherefore the ſaid John D. ſays that he is injured, and hath ſuſtained damage to the value of five hundred pounds, and therefore he brings ſuit, &c.

Plea. And the ſaid Charles W. John L. and Thomas H. by John Parker their attorney, come and defend the force and injury, and ſay, that they are not guilty of the ſeveral treſpaſſes and ejectments above laid to their charge, in manner and form as the ſaid John Denn hath above thereof complained againſt them; and of this they put themſelves upon the country, &c. and the ſaid John D. doth the like; therefore it is commanded to the ſaid

ſheriff

ſheriff that he cauſe to come before our lord the king on the morrow of the Holy Trinity, whereſoever he ſhall then be in England, twelve, &c. by whom, &c.; and who neither, &c. to recognize, &c. becauſe as well, &c. [Here followed two continuances by *virecomes non miſit breve*; the one to the morrow of All Souls, the other to eight days of St. Hilary]; at which day, before our lord the king at Weſtminſter, come the parties aforeſaid by their attornies aforeſaid, and the ſheriff doth not ſend the ſaid writ, nor hath he done any thing thereupon, and upon this the ſaid Charles W. John L. and Thomas H. relinquiſhing ſo much of their ſaid plea by them above pleaded as relates to the ſaid tenements fifthly and laſtly bove-mentioned, with the appurtenances, ſay, that they cannot deny the ſaid action of the ſaid John Denn in reſpect of thoſe treſpaſſes and ejectments, nor but that they are guilty thereof in manner and form as the ſaid John Denn hath above thereof complained againſt them: And thereupon the ſaid *Retraxit.* John Denn acknowledges that he will not further proſecute againſt the ſaid Charles W. John L. and Thomas H. in reſpect of the treſpaſſes and ejectments in the ſeveral tenements firſtly, ſecondly, thirdly, and fourthly above-mentioned, with the appurtenances: And he further ſaith and acknowledgeth that he hath ſuſtained damages by reaſon of the treſpaſſes and ejectments above confeſſed by the ſaid Charles W. John L. and Thomas H. in the ſaid tenements fifthly and laſtly above mentioned, beſides his coſts and charges by him about his ſuit in this behalf expended to one ſhilling and no more; and becauſe the ſaid Charles W. John L. and Thomas H. do not deny the ſaid allegation, but admit the ſame to be true, the ſaid John Denn prays judgment and his damages ſo acknowledged in form aforeſaid, together with his coſts and charges aforeſaid to be adjudged to him, &c.; therefore it is *Judgment.* conſidered that the ſaid John Denn recover againſt the ſaid C. W. J. L. and T. H. his ſeveral terms yet to come and unexpired of and in the ſaid tenements fifthly and laſtly above-mentioned, with the appurtenances, and the damages in form aforeſaid acknowledged, and alſo ten pounds ſixteen ſhillings and threepence for his coſts and charges by him about his ſuit in that behalf expended by the court of our lord the king now here adjudged to the ſaid John D. with his aſſent, which ſaid damages, coſts, and charges amount in the whole to ten pounds ſeventeen ſhillings and threepence, and let the ſaid John Denn be in mercy for his falſe *Merc.* complaint againſt the ſaid C. W. J. L. and T. H. as to the treſpaſſes and ejectments the ſaid tenements firſtly, ſecondly, thirdly, and fourthly above-mentioned, with the appurtenances, and let the ſaid C. W. John L. and T. H. go thereof without day, &c.; and the ſaid John Denn prays the writ of the lord the king to be directed to the ſheriff of the ſaid county, to cauſe him to have full poſſeſſion of the ſeveral terms yet to come of and in the ſaid tenements fifthly and laſtly above-mentioned, with the appurtenances, and it is granted to him returnable before our lord the king in

eight days of the Purification of the Bleſſed Virgin Mary, wheresoever he ſhall then be in England.

S. MARRYAT.

Declaration in treſpaſs after judgment in ejectment by default for meſne profits in the name of the nominal plaintiff.

HAMPSHIRE, to wit. John Doe complains of Sarah Mitchell being in the cuſtody of the marſhal of the Marſhalſea of our lord the now king before the king himſelf; for that the ſaid Sarah, on, &c. in the nineteenth year of the reign of our ſaid lord the now king, with force and arms broke and entered into one meſſuage, one curtilage, and one rood of land, with the appurtenances, in the pariſh of, &c. in the county of H. aforeſaid of the ſaid John, and ejected, put out, and amoved the ſaid John from his poſſeſſion and occupation thereof for a long time, to wit, from thence until the day of exhibiting of this bill, and during all that time had, received, perceived, and took all the iſſues and profits of the ſaid tenements being of the yearly value of five pounds to his own uſe, whereby the ſaid John not only loſt all the iſſues and profits of the ſaid tenements during all that time, but was forced and obliged to lay out and expend, and did neceſſarily lay out and expend divers ſums of money, amounting in the whole to forty pounds, in and about the obtaining poſſeſſion of the ſaid tenements, to wit, at, &c. in, &c. and the ſaid Sarah then and there did other injuries to the ſaid plaintiff, againſt the peace of our lord the now king, and to the damage of the ſaid John of forty pounds, and therefore he brings his ſuit.

Vide Runn. Ejectments, fo. 343. & 345. for various forms, and Lilly's Ent. 192.

Coſts of the ejectment.

W. LAMBE.

Michaelmas Term, 25. Geo. III.

Entry of final judgment on the roll in an action of ejectment after verdict for defendant at the trial.

DEN *againſt* ROBERTSON. } MIDDLESEX, to wit. John Denn puts in his place A. B. his attorney againſt Fenton Robinſon, in a plea of treſpaſs and ejectment: Middleſex, to wit. Fenton Robinſon puts in his place C. D. his attorney, at the ſuit of the ſaid John Denn in the plea aforeſaid. Middleſex, to wit. [Here inſert the declaration, plea, award of *venire*, down to ſecond *placita* verbatim, then go on]; at which day, before our lord the king at Weſtminſter, came the parties aforeſaid by their attornies aforeſaid, and the ſheriff of Middleſex did not return the ſaid writ, nor did he do any thing thereupon; therefore, as before, let a jury thereupon come before our lord the king whereſoever he ſhall then be in England, in eight days of St Hilary, by whom, &c. and who neither, &c. becauſe as well, &c. to recognize, &c. the ſame day is given to the parties aforeſaid at the ſame place, at which day, &c. [Here inſert a continuance to Eaſter term]; afterwards the proceſs thereof being continued between the parties aforeſaid of the plea aforeſaid, by the jury aforeſaid being reſpited between them before our ſaid lord the king whereſoever, &c. on the morrow of the Holy Trinity, unleſs the

Continuance by *vicecomes non miſit breve.*

Jury reſpited.

right

right honourable William, earl of Mansfield, his majeſty's chief juſtice, aſſigned to hold the pleas before the king himſelf, ſhall firſt come on Friday the ninth day of May, at Weſtminſter Hall, in the ſaid county, according to the form of the ſtatute in ſuch caſe made and provided, for default of the jurors, becauſe none of them appeared; at which day, before our lord the king at Weſtminſter, the ſaid J. D. and F. R. came by their reſpective attornies aforeſaid, and the ſaid chief juſtice hath ſent hither his record had in theſe words, to wit: Afterwards, that is to ſay, on the day and at the place within contained before William, earl of Mansfield, chief juſtice within named, John Way, gentleman, being aſſociated to the ſaid chief juſtice by force of the ſtatute in that caſe made and provided, came as well the within named J. D. as the within named F. R. by their reſpective attornies alſo within-named, and the jurors of the jury whereof mention is within made being called likewiſe come, who to ſay the truth of the premiſes within contained, being elected, tried, and ſworn, ſay, that the ſaid F. R. is not guilty of the treſpaſs and ejectment within laid to his charge, in manner and form as the ſaid J. D. hath within-complained againſt the ſaid F. R.; therefore it is conſidered that the ſaid J. D. take nothing by his writ aforeſaid, but for his falſe complaint againſt the ſaid F. R. in mercy, and that the ſaid F. R. go thereof without day, &c.; and it is further conſidered, that the ſaid F. R. recover againſt the ſaid J. D. for his coſts and charges by him laid out and expended in and about his defence in this behalf ſuſtained to the ſaid F. R. by the court of our ſaid lord the king now here with his aſſent, according to the form of the ſtatute in ſuch caſe made and provided, and the ſaid F. R. may have execution thereof, &c. *Drawn by* J. GRAHAM.

Poſtea and verdict for defendant.

Judgment.

HAMPSHIRE, to wit. John Doe puts in his place A. B. his attorney againſt Sarah Mitchell in a plea of treſpaſs: Hampſhire, to wit. The ſaid Sarah Mitchell puts in her place C. D. her attorney, at the ſuit of the ſaid John Doe in the plea aforeſaid: Hampſhire, to wit. Be it remembered that in Michaelmas term laſt paſt, before our lord the king at Weſtminſter, came John Doe, by A. B. his attorney, and brought into the court of our ſaid lord the king his certain bill againſt Sarah Mitchell, being in the cuſtody of our ſovereign lord the king before the king himſelf of a plea of treſpaſs, and there are pledges for the proſecution thereof, to wit, John Doe, and which ſaid bill follows in theſe words, to wit, Hampſhire, to wit, &c. [Here inſert the declaration]; and now at this day, that is to ſay, on Monday next after eight days of St. Hilary in this ſame term, to which day the ſaid Sarah had leave to imparl to the ſaid bill, and then to anſwer the ſame, as well the ſaid John Doe by his attorney aforeſaid, as the ſaid Sarah by C. D. her attorney, do come before our lord the king, and the ſaid Sarah defends the wrong and injury when, &c. and ſays nothing in bar or preclusion of the aforeſaid action of the ſaid

Judgment in ejectment by default.

John, whereby the ſaid John remains therein againſt the ſaid John undefended, wherefore the ſaid John ought to recover againſt the ſaid Sarah his damages ſuſtained by occaſion of the premiſes; but becauſe it is not known to the court of our lord the king now here what damages the ſaid John hath ſuſtained by the occaſion aforeſaid, the ſheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick he diligently enquire what damages the ſaid John hath ſuſtained, as well by occaſion of the premiſes aforeſaid as for his coſts and charges by him about his ſuit in this behalf expended, and that he ſend the inquiſition, which he ſhall thereupon take, to our lord the king at Weſtminſter, on, &c. next after, &c. under his ſeal and the ſeals of thoſe by whoſe oaths he ſhall take that inquiſition, together with this writ of our lord the king to him in that behalf directed, the ſame day is given to the ſaid Sarah at the ſame place,

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Judgment by *non informatus* in ejectment by original, inquiry of damages awarded, and *writ of poſſeſſion*, -	1. R. Pr. B. R. 476. 477
Poſtea for plaintiff in ejectment, and guilty as to part. Not guilty as to reſidue, - - - - -	*Ibid.* 269
Declaration in ejectment by *bill ſingle* demiſe. *Conſent rule*,	*Ibid.* 447
Venire in ejectment by *original*. *Diſtringas* for a *trial at bar*,	*Ibid.* 242. 247
Declaration in C. B. in ejectment of five meſſuages, and *notice* on a double demiſe, - - - -	1. R. P. C. B. 305. 309
Affidavit of ſervice of a declaration in ejectment, -	*Ibid.* 314
Rule for judgment againſt the caſual ejector, - -	*Ibid.* 198
Rule for admitting landlord. Defendant on confeſſing leaſe, entry, and ouſter, - - - - -	*Ibid.* 317
Habere facias poſſeſſionem, writ of, in ejectment, and a *ſcire facias* for *executor* after a *ſcire facias* in ejectment, -	*Ibid.* 325. 326
Plea, *puis darrein continuance* in ejectment. Releaſe from the leſſor of the plaintiff, - - - -	*Ibid.* 317
Declaration in treſpaſs and ejectment on a double demiſe. Notice to the tenants, - - - - -	2. R. P. C. B. 309
Declaration in ejectment of a meſſuage, and the moiety of a meſſuage, on the demiſe of the wardens of the poor of the hoſpital of the Holy Trinity in Croydon. Notice to the tenants in poſſeſſion, - - - - -	*Ibid.* 311. 312
Declaration in treſpaſs for *meſne profits* in ejectment. Plea, not guilty to part. To reſidue, that long before plaintiff had any thing in the tenements one E. L. was ſeiſed in fee, and deviſed them to E. wife of T. earl of H. and M. late wife of R. earl of S. and their heirs for ever; E. L. dies ſeiſed; E. and M. enter; E. marries T. earl of H; M. marries R. earl of S. Colour given to the plaintiff, who enters. Defendant, by command of the earl of H. and the earl of S. enters on plaintiff. Replication, that defendant *ought not to be admitted to plead the ſaid plea*, for plaintiff, as leſſee of B. G. and A. his wife, brought ejectment againſt defendant and ſix others, who plead not guilty. Continuance. *Niſi prius*. Trial. Verdict for plaintiff, and judgment. Rejoinder, that the earls in right of their wives were ſeiſed, and defendants as their ſervants entered, &c. Demurrer, Joinder. Continuance. Jury reſpited. *Poſtea*. Verdict for plaintiff. Contingent damages on the demurrer. Continuances. Judgment for plaintiff on the demurrer,	*Ibid.* 440
Declaration on a *ſingle* demiſe by *bill* in B. R. -	2. Cromp. Pr. 170
By *original*. *Imp. B. R. 4th Ed.* 475. 476. - -	*Ibid.* 171
On *double* demiſe, by original, - -	Imp. B. R. 4th Ed. 478
Affidavit of ſervice in order to move for judgment on *default of tenant's appearance*. Of *tenant's refuſing* to defend in order to have landlord admitted defendant. The *conſent rule* in B. R. In C. B. - -	2. Cromp. Pr. 178. 183. 185. 186
Affidavit on ſtat. 4. G. 2. c. 28. of half a year's rent being in arrear, &c. on moving for judgment againſt the caſual ejector, *Imp. B. R. 4th Ed.* 196. - - -	*Ibid.* 196
Letter of attorney to ſeal a leaſe on premiſes in caſe of vacant poſſeſſion, *Imp. B. R. 4th Ed.* 467. - -	*Ibid.* 198

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PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.

The leaſe: *Imp. B. R. 4th Ed.* 468. - - 2. Cromp. Pr. 199

Affidavit required of proceedings in caſe of vacant poſſeſſion, *Imp. B. R. 4th Ed.* 470. - - - *Ibid.* 200. 224

The writ of poſſeſſion and *fieri facias* for *coſts*; and on *two ſeveral* demiſes, - - - Im. B. R. *4th. Ed.* 492. 493. 494

Declaration in ejectment in C. B. for a meſſuage, cottage, land, meadow, and paſture, and the moiety of a manor, fair, and market tolls, &c. - - - - Lil. Ent. 192

Declaration in treſpaſs for *meſne profits* in ejectment, tried at bar. Plea in abatement thereto, craving *oyer* of the original writ; ſays there is no ſuch writ in the regiſter, and that the writ *varies* from the writs in the regiſter *for not ſhewing that the premiſes are the property of plaintiff.* Plea in bar to the laſt declaration; as to the force and arms, not guilty; and as to the reſt of the treſpaſs, that the premiſes *are the freehold* of defendant, and juſtifies, - - - *Ibid.* 192, 193

Declaration in ejectment for lands in Kent, on the demiſe of R. H. Plea, not guilty, and *poſtea* on *ſpecial verdict*, *Ibid.* 194 to 202

Leaſe in ejectment where premiſes are vacant, in order to recover poſſeſſion. Rule in ejectment to make tenant defendant, - - - - - *Ibid.* 202

Declaration in ejectment by *original* in B. R. to be delivered to the tenant to compel him to appear, and *notice* ſubjoined. Rule of court on motion for judgment againſt tenant, unleſs, &c. - - - - - *Ibid.* 203

Affidavit of the delivery of declaration to the tenant in poſſeſſion, or the *wife*, or *ſervant*, &c. - - - *Ibid.* 203

Rule of court for defendant to *bring money into court*, and for the maſter *to compute the rent in arrear*, and tax the coſts, *Ibid.* 204

Declaration in ejectment by *bill* againſt *tenants in common*, for four parts of land in five to be divided. Plea, to the force, &c. not guilty; to reſidue, that premiſes are copyhold held of the manor of B. whereof dame Capel and baron, ſeiſed in fee, granted by copy to A. H. in fee, who had iſſue four ſons and two daughters, and ſurrendered to his wife for life, and afterwards to his *three* younger ſons and *two* daughters in fee, equally to be divided, who were admitted, and all of them except A. died, who being ſole ſeiſed by the ſurvivorſhip, married J. N. who had iſſue one of the defendants, who, on the death of his father and mother, entered and was ſeiſed, on whom plaintiff entered, and the other defendant as his ſervant entered, and ejected plaintiff, as they lawfully might. Replication, as to *three fifth parts*, admits that they are copyhold, but ſays that ſaid A. H. had iſſue one W. H. A. H. the younger, and R. H. and G. H. ſons, and G. H and A. H. daughters, and ſurrendered to the uſe of *five* as tenants in common; that *three* of them died, and their parts deſcended to W. H. their eldeſt brother; that W. H. ſurrendered to the uſe of his will out of court, according to the cuſtom, and by his will deviſed theſe *three* parts to the leſſor of

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plaintiff, and on his death were preſented, and the deviſee admitted to the *three fifths*, who demiſed ſame to plaintiff, like as the other fifth part,	Lill. Ent. 205 to 209
Record of proceedings in ejectment in B. R. by *original*. Verdict for plaintiff. Motion in arreſt of judgment, with judgment for the plaintiff,	2. Morg. Va. Me. 444 to 450
Declaration in C. B. by original for *meſne profits* in treſpaſs and ejectment, *contra pacem* of the *late* and preſent king,	Pl. Aſſ. 502
Rule of *judgment* againſt the caſual ejector in both *courts*,	Cromp. Pr. 180
Præcepi for the curſitor, by which to make out the *original writ* in ejectment,	*Ibid.* 192
Plea in *abatement*, that the lands are parcel of the manor of B. which is *antient demeſne*, and that the ſaid tenements are impleadable in the court of the ſaid manor by the *writ of right cloſe*. Demurrer, for "that the ſaid plea doth not ſhew that the tenements are *held* of the manor of B. Joinder. Continuances. Judgment of *reſpondeas ouſter*. Plea, not guilty. Iſſue. *Venire facias* by *original* awarded,	2. R. P. 37
Ejectment for lands. Plea, not guilty. *Niſi prius*. *Poſtea*. Special verdict,	2. Ld. Raym. 101
Verdict in ejectment on *double* demiſe, part for the plaintiff, part for defendant,	Lill. Ent. 513. 515. 516
Teſtatum capias ſatisfaciendum for damages in ejectment after judgment affirmed in B. R. on error out of C. B.	*Ibid.* 554
Record in ejectment. Count. Plea, not guilty. *Niſi prius*. *Poſtea*. Special verdict,	3. Ld. Raym. 99
Statutes relative to ejectments recited, Stat. 21. Jac. 1. c. 16. 16. and 17. Car. 2. c. 8. made perpetual by 22. and 23. Car. 2. c. 4. 4. G. 2. c. 28. 11. G. 2. c. 19.	Runn Eject. Appen. 177
Leaſe in ejectment where premiſes are not inhabited, to recover poſſeſſion,	*Ibid.* 186
Proceedings in an action of ejectment by original in B. R.	*Ibid.* 188
Declaration in ejectment by *bill*, by original on a *double* demiſe,	*Ibid.* 192. 193
Affidavit of *ſervice* of declaration where there is but one tenant. *Other* forms of affidavits,	*Ibid.* 197. 198
Common rule of court. *Other* rules of court,	*Ibid.* 200. 202
Record in ejectment. Declaration. Plea, Iſſue. *Venire*. Reſpite for default of jurors. *Niſi prius*. *Poſtea*. *Tales de circumſtantibus*. Verdict for plaintiff. Motion in arreſt of judgment. Continuances. *Cur. adv. vult*. Judgment for plaintiff. Coſts. *Capiatur pro fine*. Writ of poſſeſſion, and return,	*Ibid.* 204
Special Verdicts, ſeveral forms of,	*Ibid.* 212
Writ of *habere facias poſſeſſionem*, with a *fieri facias* for the *coſts*. *Other* forms of *writs of poſſeſſion*,	*Ibid.* 299
Return of *tarde* upon the writ of poſſeſſion, and the *writ of enquiry* executed, and *another* writ of poſſeſſion awarded. *Other* forms of *returns* by the ſheriff,	*Ibid.* 305, 306, &c.
Aſſignment of errors in the exchequer chamber, and of the judgment thereon, as alſo the *remiſſion* of the record into B. R. Several forms of *writs of error* in ejectment,	*Ibid.* 311. 314

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Declaration in ejectment in C. B. of Ireland, -	Runn. Eject. Appen. 318
Scire facias quare executionem non, and return of *nihil* in ejectment. *Alias ſcire facias* and *bill of exceptions*, - -	*Ibid.* 323. 324
Declaration by *original* for *meſne profits*, - - -	*Ibid.* 343
Declaration by *bill* for the *meſne profits* and *coſts* in ejectment, after judgment by default againſt caſual ejector. Pleas thereto, not guilty, and not guilty within *four* years. Replication and iſſue, - - - -	*Ibid.* 347
Writ of enquiry for the *meſne profits* after judgment in ejectment affirmed on error in the exchequer chamber, and ſheriff's return, - - - -	Lill. Ent. 599

Count in ejectment. Imparlance. Plea, *non cul.* *Venire.* Judgment reſpited. *Niſi prius.* *Poſtea.* Special verdict, 3. Ld. Ray. *N. Ed.* 153. 4

Ejectment for a manor, *Pl. Gen.* 406. *Ra.* 252. *Reg.* 227. Manors, tenements, and lands, *Wi. Ent.* 424. *Han.* 94. And ſheep-walk, and liberty of two folds, *Her.* 376. Houſe, lands, and rectory, 1. *Bro.* 209. Houſe in London, 1. *Bro.* 208. *Wi. Ent.* 391. *Re. Dec.* 251. *Co. Ent.* 207. *Aſh.* 268. Houſes and lands, 1. *Bro.* 211. 2. *Bro.* 112. *Wi. Ent.* 367. 374. 392. 394. 400. 406. *Han.* 94. *Bro. Vad.* 270. *Re. Dec.* 252. *Mo. Ent.* 247. *Pl. Gen.* 403. *Co. Ent.* 184. 189. In two towns, *Ibid.* 213. 215. Houſe, one garden, and one orchard, *Wi. Ent.* 390. And barn and lands, *Re. Dec.* 251. 3. *Co.* 45. Houſe, 1. *Bro.* 209. *Wi. Ent.* 387. 396. *Tho.* 295. Meſſuage and garden in Weſtminſter, *Wi. Ent.* 423. Moiety of a houſe, *Ra.* 256. *Plo.* 459. And one ox gang and three cloſes, 1. *Bro.* 208. Houſe, barn, ſtable, orchard, and land, *Han.* 95. 2. *Inſt. Cl.* 394. For a hall and kitchen, &c. parcel of a houſe in London, *Her.* 366. *Three* parts of a houſe in London, in *four* to be divided, *Co. Ent.* 195. *Two* parts of a houſe in *three*, &c. *Her.* 365. Two houſes, one cottage, twenty acres of land, and two acres of paſture. *Lev. Ent.* 58. Cottage, and half an acre of land, 1. *Bro.* 210. Tithes, *Ibid.* 210. *Dy.* 116. Rectory and tithes, 1. *Co.* 148. Rectory of moiety of church, *Ra.* 253. Lands, chapel, and tithes, 11. *Co.* 23. Tithes, with barn and garden belonging to the rectory. *Dy.* 258. Land and paſture, 1. *Bro.* 208. 2. *San.* 108. *Bro. Vad.* 271. Twenty acres of meadow, 2. *Bro.* 111. Fifteen acres of land, *Wi. Ent.* 379. 398. 400. Hundred acres of land, *Ra.* 251. Ten acres of land, called the upper part of a cloſe, 3. *Co.* 16. Paſture for a cow, *Reg.* 227. Thirty acres of paſture, *Wi. Ent.* 403. Common of paſture, *Jud.* 72. *Aſh.* 269. Veſture of land, 2. *Br.* 290. Of a pool (*gurgite*), *Reg.* 227. 228. Salt-works (*ſalina*), *Co. Ent.* 229. Houſe, cottage, water-mill, wind-mill (*ventritico*), and lands, 1. *San.* 171. For a water-mill, *Wi. Ent.* 413.

Declaration in ejectment on a *parol* demiſe, 1. *Bro.* 208. 211. *Wi. Ent.* 369. 373. 379. 387. 394. 398. 400. 416. [as corrected, but 403. 417. as miſ-printed]. 1. *San.* 171. 2 *San.* 108. *Co. Ent.* 184. 213. 215. 3. *Co.* 45. 10. *Co.* 109. *Plo.* 459. 1. *Br.* 122. *Aſh.* 268. On parol demiſe in a ſhort form (*in brevi forma*), *Ra. Ent* 251. *Vet. Int.* 49. *Tho.* 295. *Pl. Gen.* 406. Longer form, *Ra.* 252. By *original* in B. R. *Tho* 295. *Re. Dec.* 253. 1. *Inſt. Cl.* 172. On two parol leaſes by two leſſors in ſhort forms, *Tho.* 295.

On two ſeveral demiſes, by ſeveral leſſors named, 2. *Inſt. Cl.* 394. In the exchequer, *Mo. Ent.* 248. To hold from the day of the demiſe and entry alledged two years after the date, 4, *Co.* 96.

By prior, *in brevi forma*, of four cloſes and one meadow, called, &c. containing lands in a writ of demiſe without writing, *Ra.* 252. By an *attorney*, by *writ of privilege*,

privilege on a parol demiſe for years, 1. *Bro.* 208. Againſt an attorney, *Bro. Vad.* 270. By ſiſter and ſon co-heirs, *Wi. Ent.* 367. By an infant, by *prochein ami*, 2. *Bro.* 112. Againſt defendant, *ſimul cum*, &c. 1. *Bro.* 211. *Wi. Ent.* 401. 403. 413. 435.

On a demiſe by indenture, 1. *Bro.* 210. By an attorney, by writ of privilege, 2. *Bro.* 111. Of lands which one, ſeiſed, demiſed, &c. *Ra.* 254, *Plo.* 223. 416. *Dy.* 258. For years, to have and to hold, &c. *Ra.* 256. By *guardian*, in ejectment, *Re. Dec.* 254. On a demiſe by indenture, to hold from the *ſigning* and *ſealing*, *Wi. Ent.* 413. 447. From *feaſt following*, 1. *Bro.* 208. 210. 2. *Bro.* 111. *Bro. Vad.* 271. *Co. Ent.* 189. *Plo.* 416. From *day of the date*, *Wi. Ent.* 387. 1. *Bro.* 210. *Mo. Int.* 248. 1. *Co.* 148. *Her.* 367. From a day *poſt*, *Bro. Vad.* 270. 272. *Re. Dec.* 251, &c. 1. *Inſt. Cl.* 170. 325. 2. *Inſt. Cl.* 394. *Mo. Int.* 247.

On parol demiſe, by huſband and wife, *Ra.* 252. 3. *Co.* 16. And ſpecial verdict thereon, *Ra.* 256.

On demiſe of biſhop, ſealed one day, delivered another, 1. *Bro.* 209. Demiſe of biſhop. *Her.* 366. By writing ſealed on the ſame day, 1. *Bro.* 209. By indenture, *Pl. Gen.* 403. Demiſe for years if one P. ſhould ſo long live, 1. *Bro.* 210. If J. E. and H. brothers and ſiſter, or leſſor, ſhould ſo long live, *Wi. Ent.* 406. 440. Of a *clerk*, by indenture for years, if he ſhould ſo long live, *Her.* 368. If he ſhould ſo long remain rector, *Ibid.* 368. Of a *prior*, by deed indented, *Plo.* 187. Of a rectory, without writing, *Ra.* 253. *Vet. Int.* 49. Of lands, *Ra.* 252. Of the archbiſhop, by indenture *per nomina* to hold from the day of the date, *Co. Ent.* 186.

On demiſe of a rectory to plaintiff by one defendant for three years, and from three years to three years, for eighteen years, *Ra.* 253.

On demiſe by deed in reverſion, by *prior* and convent, who ſurrender to the king, who grants reverſion in fee, *Ra.* 253. *Plo.* 187.

Of tithes demiſed for years by biſhop for years, confirmed by dean and chapter, by indenture, to hold from the day of the date, 1. *Bro.* 210.

Demiſe of two ſhops, whereof one moiety was demiſed to plaintiff by mayor and commonalty of London, the other by the warden, &c. of mercers, London, by the ſame indenture *tripartite*, 1. *Bro.* 209. *Her.* 365.

Demiſe, *no place* where demiſe was made, *Co. Ent.* 215. On demiſe to H. of lands in M. *Plo.* 223. At E. in the pariſh of F. of lands in F. *Co. Ent.* 205. Of lands, chapel, and tithes to hold from a day paſt by indenture, 11. *Co.* 23.

On demiſe by maſters and company of a myſtery in London, *Ra.* 259. *Plo.* 530.

By an *executor*, on a demiſe made for years by indenture to teſtator, 1. *Bro.* 208. By *adminiſtrator*, by indenture made to inteſtate, *Ibid.* 210. By *executor* and huſband and wife, co-executrix, on a demiſe made to teſtator, *Ra.* 252. By *executor*, on a demiſe made to teſtator, *Co. Ent.* 195. 3. *Br.* 204.

By executor of aſſignee of a term of ejectment, and carrying away goods, 1. *Br.* 132.

By *leſſee* of leſſee, *Ra.* 256. *Co. Ent.* 73. *Plo.* 416. By *aſſignee* of leſſee for years, *Her.* 5. *Aſh.* 269, &c. On demiſe in reverſion, *Aſh.* 269. *Ra.* 253.

On demiſe by an *abbot*, for years to A. who aſſigned to B. who died inteſtate, and *adminiſtrator aſſigns* to plaintiff, 1. *Bro.* 124.

Ejectment, where defendant entered and occupied tenements for a long time, and diſturbed plaintiff in the perception of the iſſues, and carried off goods, *Ro. Ent.* 146. *Reg.* 22. *F. N. Br.* 220. *Plo.* 119. On demiſe for years, *Ibid.* 187.

Ejectment, and goods carried off, *Ra.* 252. *Co. Ent.* 73. *Reg.* 227. *Vet. N. Br.* 123. *F. N. Br.* 220. *Fin.* 117. *Plo.* 199. *Vet. Int.* 49. *Aſh.* 271. By aſſignee of a term, *Ra.* 252. *Co. Ent.* 73.

Ejectment againſt caſual ejector, *Bro. Vad.* 271, &c. with *rule* of court, and *affidavit*. Like *notice*, *rule*, and *affidavit*, 1. *Inſt. Cl.* 170, &c. In B. R. and in C. B. *Ibid.* 325. *Imparlance*, *Bro. Vad.* 273. *Re. Dec.* 254. *Cl. Man.* 391.

PLEAS.

Plea, not guilty, 2. *Bro.* 111. *Wi. Ent.* 367. 370. 373. 375. 379. 387. 392. 394, 400. 404. 406. 409. *Mo. Int.* 249. *Ra.* 256. *Co. Ent.* 76. 196. 213. 215. 3. *Co.* 45. 10. *Co.* 109. *Plo.* 459. Not guilty to part, ſpecial plea to reſidue, *Wi. Ent.* 396. 398. 413. 1. *Bro.* 212. *Pl. Gen.* 404. And *non informatus* to reſidue, 1. *Br.* 125. *Non cul.* by one defendant, *nil dicit* by the other, 1. *Bro.* 211. *Concord.* Demurrer. *Wi. Ent.* 390. *Her.* 365.

Plea, *non ejecit*, *Dy.* 89. 264. 1. *Br.* 125.

Not guilty as to taking the goods, to the ejecting ſpecial plea, *Aſh.* 374.

Plea to ejectment on demiſe of one defendant, that the demiſe was made by *dureſs* of impriſonment, *Ra.* 252.

Plea of ancient demeſne, *Mo. Int.* 249.

PLEAS MORE SPECIAL.

That leſſor demiſed to defendant, who was poſſeſſed till leſſor entered and demiſed to plaintiff, and defendant re-entered. Replication, that leſſor demiſed to plaintiff, and *traverſe* that he demiſed to defendant, 1. *Bro.* 211. *Ra.* 251.

That R. ſeiſed, demiſed to defendant, and died, and reverſion deſcended to leſſor of plaintiff, who entered on defendant, and demiſed *ad placit.* and defendant re-entered. Replication, that C. ſeiſed made feoffment to uſe of R. for life, remainder in fee to leſſor; R. demiſes to defendant, and dies; leſſor enters on him, and demiſes to plaintiff; and traverſe that R. died ſeiſed in fee, and iſſue, 1. *Bro.* 212.

That W. ſeiſed, deviſes to J. for life, remainder to R. and J. for twenty-one years, remainder to M. and E. his ſons in tail, remainder to right heir of W. who died, and J. enters, and was ſeiſed for life. E. one of the ſons and M. the other, deviſe to leſſor of plaintiff on condition and deed; tenant for life dies, and R. and J. enter on the term for twenty-one years; condition is broken, and term expires; E. and H. as couſin and heir, enter for condition broken. Replication, that M. being ſeiſed deviſed to leſſor of plaintiff in fee, and traverſe of deviſe on condition. Demurrer, *Wi. Ent.* 396. 340.

That E. ſeiſed of the manor, enfeoffed T. and M. to hold to them and the heirs of T. who grants cuſtomary lands to defendant in fee. Replication, that E. was ſeiſed, whom T. diſſeiſed, and granted to defendant; E. re-entered, and enfeoffed T. and M. as above; T. died and M. ſurvived, who entered on defendant, and demiſed to plaintiff, and traverſes feoffment in the bar. Demurrer ſpecial, *Wi. Ent.* 398. 432.

That queen E. being ſeiſed, demiſed for years to M. reverſion deſcended to king J. who demiſed to C. for years, who demiſed to defendant. Replication, confeſſes leaſe to M. and reverſion in the king; but pleads that the king, before the demiſe to C. granted the reverſion to E. and F. who by indenture inrolled ſold to leſſor of plaintiff. Demurrer, *Wi. Ent.* 413. 447.

Plea to declaration on demiſe for forty years, that leſſor was *laicus*, and indenture was read to him as for twenty years, and traverſes that he demiſed for forty years, and iſſue on the traverſe, *Pl. Gen.* 404.

Plea on demiſe by huſband and wife, that huſband at the time of the demiſe had nothing in the lands, unleſs in right of his wife; he died, and defendant as ſervant of the widow re-entered. Replication, that ſhe, *after the death of huſband*, accepted rent. Rejoinder, on acceptance, *Ra.* 252.

That W. prior, ſeiſed, demiſed to defendant lands in reverſion for years; reverſion is ſurrendered to the king, who grants to A. in fee, who demiſes to plaintiff. Replication, that R. prior, demiſed to defendant for years, and W. prior, demiſed to defendant for years, and that the ſtatute reſtrains leaſes in reverſion to have continuance for twenty-one years only, which expired. Rejoinder, that defendant ſurrendered the firſt leaſe to W. prior. Surrejoinder, that R. prior, demiſed to

defendant

defendant for years, who was poſſeſſed at the time of the demiſe by W. prior, and traverſe of ſurrender of the term, *Co. Ent.* 187.

That the king, being ſeiſed, granted to two for their lives, and the reverſion to R. for years who made defendant executor. The king granted the reverſion to S. who demiſed to plaintiff. Replication, that the grant for years was with a proviſo of re-entry for rent arrear, and that S. after the inquiſition, by virtue of a commiſſion re-entered for rent arrear. Demurrer. *Co. Ent.* 192.

That the king, being ſeiſed, demiſed to L. who aſſigned to defendant, who was poſſeſſed till leſſor entered on him and diſſeiſed R. and demiſed to plaintiff, and defendant re-entered. Replication, that leſſor ſeiſed demiſed to plaintiff *prout, &c.* and traverſe of diſſeiſin, 3. *Br.* 207.

That the king, being ſeiſed, demiſed for years to K. and in reverſion for years to J. who aſſigns to leſſor, who is an *alien artificer*, and therefore void, and by reaſon thereof J. demiſed to defendant. Replication, that leſſor is native natural born ſubject, *Her.* 362.

That W. ſeiſed, demiſed for years to G who demiſed to defendant. Replication, confeſſes leaſe by W. to G. but pleads that G. before the demiſe to defendant, demiſed to leſſor. Rejoinder maintains plea, and traverſes that G. before demiſe to defendant, demiſed to leſſor, *Vi. Ent.* 363.

Plea to part, that A. ſeiſed, demiſed for years to G. and granted the reverſion to the king; G. aſſigned to R. who aſſigned to E. who died inteſtate, and adminiſtration was committed to defendant; to reſidue, that king, being ſeiſed, demiſed to K. who aſſigned to E. &c. Replication to both pleas, that E. poſſeſſed, deviſed to leſſor, and made him executor, and traverſes that E. died inteſtate, *Aſh.* 274.

That E. ſeiſed of lands in truſt for S. and an *uſurious contract* was made between N. and S. &c. *Her.* 367.

That W. ſeiſed of the manor, granted copyhold lands in reverſion to defendant and others for their lives. Replication, that W. demiſed the manor to C. and R. for years determinable on the life of M.; they aſſign to M. who granted reverſion of lands to H. for life. Rejoinder, that D. was before ſeiſed of the manor which deſcended to three co-heireſſes, whom W. diſſeiſed, &c. Surrejoinder, maintains Replication, and traverſes diſſeiſin, *Co. Ent.* 184.

That leſſor, ſeiſed, ſold the lands to defendant by indenture inrolled, and ſince by diſſeiſin, demiſed to plaintiff. Replication, that the ſale *was with condition of re-entry* for monies not paid, and traverſes diſſeiſin. Demurrer, *Co. Ent.* 191.

That A. ſeiſed, enfeoffed R. who enfeoffed defendant, who was ſeiſed till leſſor diſſeiſed, &c. Replication, that leſſor and wife being ſeiſed in right of his wife, demiſed to plaintiff, &c. and traverſes that leſſor diſſeiſed defendant, 3. *Br.* 205.

Plea as to taking the goods, not guilty; to the ejection, that B. was ſeiſed, and deſcent to defendant as couſin. Replication, that J. ſeiſed, made feoffment to uſes of T. and wife in tail which deſcended to ſaid B. in tail, who died without iſſue, and remainder in fee deſcended to leſſor, and traverſes that B. died ſeiſed in fee, *Aſh.* 278.

That W. ſeiſed of the manor, levied a fine, with render to him in tail, remainder to the king in tail, remainder to W. in fee; W. died without iſſue; the king entered and his ſucceſſor died without iſſue; lands reverted to the heir of W. Replication, that the king, being ſeiſed, granted to the queen for life by fine, and her ſucceſſor granted the reverſion in fee to leſſor. Demurrer, *Ra.* 254. *Pio.* 224.

That the king, ſeiſed, granted to the queen for life, who demiſed to plaintiff for years, and granted reverſion to C. for life who aſſigned to defendant; the king granted reverſion to three, who releaſe to defendant, who requeſt the plaintiff to go with them to ſuppreſs Wyatt in the rebellion, who refuſed, for which defendant entered for the forfeiture according to the ſtatute. Replication, that at the time of the requeſt he was infirm, *Co. Ent.* 69.

That the king, ſeiſed, granted in tail to L. who demiſed to defendant for years, rendering

rendering rent; lands descended to M. who accepted rent, and having a son living was attainted of treason. Replication confesses gift in tail to T. demise to defendant, and descent to M.; but pleads that M. entered and was attainted, and the king granted lands to plaintiff. Rejoinder maintains the plea, and traverses that M. entered into the lands, *Co. Ent.* 78.

JUDGMENTS in EJECTMENT.

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Ejectment for twenty pounds. Verdict thereon. Damages thirty pounds. Judgment for ten pounds, with *remittitur damna*, 2. *T. Jud.* 117.

Action againſt A. *Simulcum* B. A. *nil dicit cepit executionem* till B. appears, &c. Plaintiff *nolle proſ.* againſt B. 2. *T. Jud.* 117.

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QUARE

QUARE IMPEDIT.

OUR lord the king hath ſent to his right truſty and well beloved Alexander, lord Loughborough, his chief juſtice of the bench here, his writ cloſed in theſe words: George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to our right truſty and well-beloved Alexander, lord Loughborough, our chief juſtice of the bench, greeting; foraſmuch as in the record and proceſs, as alſo of giving judgment in a plaint which was in our court before you and your aſſociates, our juſtices of the bench by our writ between Ann Metcalfe, widow, John, biſhop of Carliſle, and James, earl of Lonſdale, for that the ſaid biſhop and earl ſhould permit the ſaid Ann to preſent a fit perſon to the church of Kirkbridge, in the county of Cumberland, which was void and in the gift of the ſaid Ann, as it is ſaid manifeſt error hath intervened to the great damage of the ſaid biſhop and earl, as by their complaint we are informed; we being willing that the ſaid error (if any be) be fully amended, and full and ſpeedy juſtice done to the ſaid parties in behalf, do command you that if judgment be given thereupon, then you ſend to us diſtinctly and plainly under your ſeal the record and proceſs of the ſaid plaint, with all things touching the ſame and this writ, ſo that we may have them on the morrow of All Souls whereſoever we ſhall then be in England, that inſpecting the record and proceſs aforeſaid we may cauſe further to be done thereupon for amending the ſaid error as of right, and according to the law and cuſtom of England ſhall be meet to be done. Witneſs ourſelf at Weſtminſter the eighth day of July, in the twenty-eighth year of our reign. Tournay. The anſwer of Alexander, lord Loughborough, chief juſtice within-named, the record and proceſs of the plaint within-mentioned, with all things touching the ſame, I ſend before our lord the king whereſoever, &c. at the day within contained, in a certain record to this writ annexed, as I am within commanded. Loughborough. Pleas inrolled at Weſtminſter, before the right honourable Alexander, lord Loughborough and his brethren, juſtices of his majeſty's court of common bench of Trinity term, in the twenty-eighth year of the reign of our ſovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. Rolls 264 and 265. Cumberland, to wit. John Biſhop of Carliſle, and James earl of Lonſdale, were ſummoned to anſwer Ann Metcalfe, widow, of a plea that they permit the ſaid Ann to pre-

(a) Writ of error in *quare impedit.*

Declaration in *quare impedit.*

(a) See Error, *ante.*

ſent a fit perſon to the rectory of the pariſh church of K. in the ſaid county of C. which is now vacant, and belongs to her preſentation; and whereupon the ſaid Ann, by T. H. her attorney, complains, that whereas one ſir James Dalſton, baronet, now deceaſed, was in his lifetime, to wit, on, &c. ſeiſed of the manor of K. with its appurtenances, to which manor the advowſon of the ſaid rectory, with its appurtenances then belonged, in his demeſne as of fee; and being ſo ſeiſed thereof as aforeſaid, he the ſaid ſir J. D. afterwards, to wit, on, &c. at, &c. preſented to the ſaid church, being then vacant, one G. G. his clerk, who on the preſentation of the ſaid ſir J. D. was admitted, inſtituted, and inducted into the ſame in the time of peace, in the time of our ſovereign lord George the Second, late king of Great Britain; and being ſo ſeiſed thereof afterwards, to wit, on, &c. at, &c. in, &c. by a certain indenture of bargain and ſale then and there made between the ſaid ſir J. D. (by his name and deſcription therein mentioned) of the one part, and Thomas Metcalfe, clerk (by his name and deſcription therein mentioned) of the other part; one part of which ſaid indenture, ſealed with the ſeal of the ſaid ſir George, the ſaid Ann now brings here into court, the date whereof is the day and year laſt aforeſaid, for the conſideration therein mentioned, the ſaid ſir J. bargained and ſold to the ſaid T. M. the ſaid advowſon of the rectory aforeſaid, with the rights, members, and appurtenances thereof, to have and to hold the ſame unto the ſaid T. M. from the day of the date of the ſaid indenture unto the full end and term of one year from thence next enſuing, and fully to be complete and ended, as by the ſaid indenture more fully appears, by virtue whereof the ſaid T. M. was poſſeſſed of the ſaid advowſon for the ſaid term; and being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid ſir J. as aforeſaid, he the ſaid ſir G. afterwards, to wit, on, &c. at, &c. in, &c. by a certain other indenture then and there made between the ſaid ſir G. (by his name, &c.) of the one part, and the ſaid T. M. by, &c. of the other part (one part of, &c.) granted and releaſed to the ſaid T. M. his heirs and aſſigns for ever, the reverſion of the ſaid advowſon of the rectory aforeſaid, with the appurtenances, to have and to hold the ſame unto the ſaid Thomas, his heirs and aſſigns for ever, to the uſe of the ſaid Thomas, his heirs and aſſigns for ever, as by the ſaid laſt-mentioned indenture more fully appears; by virtue whereof, and by force of the ſtatute made for transferring uſes into poſſeſſion, he the ſaid Thomas was ſeiſed of and in the ſaid advowſon as in groſs by itſelf as of fee and right; and being ſo ſeiſed thereof, he the ſaid Thomas afterwards, to wit, on, &c. at, &c. died ſeiſed of his ſaid eſtate therein, upon whoſe death the ſaid advowſon of the ſaid rectory deſcended to one W. M. as the ſon and heir of the ſaid T. M. whereby the ſaid W. M. was ſeiſed of the ſaid advowſon of the ſaid rectory as in groſs by itſelf as of fee and right; and the ſaid W. M. being ſo ſeiſed thereof afterwards, to wit, on, &c. by a certain indenture then and there made between the ſaid W. M. (by his, &c.)

&c.) of the one part, and the ſaid A. M. mother of the ſaid W.M. (by her, &c.) of the other part, (one part of, &c.) the ſaid W.M. for the conſideration in the ſaid laſt-mentioned indenture mentioned, did bargain and ſell to the ſaid Ann the ſaid advowſon of the ſaid rectory, with the appurtenances, to have and to hold the ſame to the ſaid Ann from the day of the date of the ſaid laſt-mentioned indenture unto the full end and term of one whole year from thence next enſuing, and fully to be complete and ended, as by the ſaid laſt-mentioned indenture more fully appears, by virtue whereof the ſaid Ann was poſſeſſed of the ſaid advowſon for the ſaid laſt-mentioned term; and being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid W. M. as aforeſaid, he the ſaid W. M. afterwards, to wit, on, &c. by a certain other indenture then and there made between the ſaid W. M. (by, &c. of the one part), and the ſaid Ann, (by, &c.) of the other part (one part of, &c.) granted and releaſed to the ſaid Ann and her heirs his ſaid reverſion of the ſaid advowſon of the rectory aforeſaid, with the appurtenances, to have and to hold the ſame unto the ſaid Ann and her heirs for ever, as by the ſaid laſt-mentioned indenture more fully appears; by virtue whereof and by force of the ſtatute made for transferring uſes into poſſeſſion, ſhe the ſaid Ann was ſeiſed of and in the ſaid reverſion of the ſaid advowſon of the ſaid rectory as aforeſaid as in groſs by itſelf as of fee and right; and the ſaid Ann being ſo ſeiſed thereof, the ſaid church afterwards, to wit, on, &c. became vacant by the death of the ſaid G. G. whereby it then and there belonged and now belongs to the ſaid Ann, to preſent a fit perſon to the ſaid church, ſo being vacant as aforeſaid, but the ſaid biſhop and earl will not permit her, but unjuſtly hinder her; wherefore ſhe the ſaid Ann ſaith ſhe is injured, and hath ſuſtained damage to the value of one thouſand pounds, and therefore ſhe brings her ſuit, &c.

Plea by biſhop.

And the ſaid John, biſhop of Carliſle, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and ſaith that he hath nothing, nor doth he claim to have any thing in the rectory of the church aforeſaid but the admiſſion, inſtitution, and induction of the rectors of the ſame church, as ordinary of the ſame church; and this, &c.; wherefore, &c. if the ſaid Ann, without aſſigning a ſpecial impediment in the ſaid biſhop, ought to have or maintain her ſaid action againſt him, &c.: And the ſaid James, earl of L. by A. B. his attorney, comes and defends the wrong and injury, when, &c. and ſays, (*actio non*); becauſe he ſays, that the ſaid ſir J. D. deceaſed, in his lifetime, and before the making of the ſaid indenture of leaſe and releaſe to the ſaid T. M. in the ſaid declaration mentioned, to wit, on, &c. was ſeiſed in his demeſne as of fee of and in the manor of K. in the county of C. with the appurtenances, to which ſaid manor the ſaid advowſon of the ſaid rectory, with the appurtenances, was then appendant, and being ſo ſeiſed as aforeſaid, he the ſaid ſir J. D. afterwards, and whilſt he was ſo ſeiſed, to wit, on, &c. preſented to the ſame church, the ſame being then vacant, the ſaid

Plea by pſeudo patron.

G. G. his clerk, who on the ſaid preſentation of the ſaid ſir J. D. was admitted, inſtituted, and inducted into the ſame, and by virtue of the ſaid preſentation remained and continued in the poſſeſſion of the ſaid church from thence until the ſame became vacant by his death, as in the ſaid declaration is alledged; and the ſaid ſir J. D. being ſo ſeiſed of the ſaid manor as aforeſaid, with the appurtenances, and the ſaid advowſon being ſo appendant to the ſame as aforeſaid, whilſt he was ſo ſeiſed, and whilſt the ſaid advowſon was ſo appendant as aforeſaid, and before the making of the ſaid indenture of bargain and ſale and releaſe to the ſaid T. M. in the ſaid declaration mentioned, to wit, on, &c. at, &c. by a certain indenture of bargain and ſale then and there made between the ſaid ſir J. D. (by his, &c.) of the one part, and Joſhua Wilſon, (by his, &c.) of the other part, which ſaid indenture is now in the poſſeſſion of the ſaid Ann, ſo that the ſaid earl cannot bring the ſame into court here; he the ſaid ſir J. D. for the conſiderations therein mentioned, bargained and ſold to the ſaid J. W. the ſaid manor, together with the ſaid advowſon of the rectory aforeſaid, ſo being dependant thereto as aforeſaid, and all other the appurtenances thereto belonging, to have and to hold the ſame unto the ſaid J. W. from the day of the date of the ſaid indenture unto the full end and term of one whole year from thence next enſuing, and fully to be complete and ended, as by the ſaid indenture more fully appears; by virtue whereof the ſaid J. W. became and was poſſeſſed of the ſaid manor and advowſon, with the appurtenances, for the ſaid term; and being ſo poſſeſſed, and the reverſion thereof belonging to the ſaid ſir J. D. as aforeſaid, he the ſaid ſir J. D. afterwards, to wit, on, &c. by a certain other indenture then and there made between the ſaid ſaid ſir J. D. (by his, &c.) of the one part, and the ſaid J. W. (by his, &c.) of the other part, which ſaid laſt-mentioned indenture, ſealed with the ſeal of the ſaid ſir J. D. is in the poſſeſſion of the ſaid Ann, ſo that the ſaid earl cannot bring the ſame into court here, granted and releaſed to the ſaid J. W. his heirs and aſſigns for ever the ſaid reverſion of the ſaid manor and advowſon, with the appurtenances, to have and to hold the ſame unto the ſaid J. W. his heirs and aſſigns for ever, to the uſe of the ſaid J. W. his heirs and aſſigns, as by the ſaid laſt mentioned indenture more fully appears; by virtue whereof, and by force of the ſtatute made for transferring uſes into poſſeſſion, he the ſaid J. W. then and there became and was ſeiſed in his demeſne as of fee of and in the ſaid manor, and as of fee and right of and in the ſaid advowſon, ſo being appendant thereto as aforeſaid, with the appurtenances, and ſo remained and continued from thence until and at the time of making the indenture of leaſe and releaſe thereof to W. M. as hereinafter mentioned: And the ſaid earl in fact further ſays, that the ſaid J. W. being ſo ſeiſed of the ſaid manor and advowſon as aforeſaid reſpectively, and the ſaid advowſon being ſo appendant to the ſaid manor as aforeſaid, whilſt the ſaid J. W. was ſo ſeiſed, and whilſt the ſaid advowſon was ſo appendant to the ſaid manor as aforeſaid, to wit, on, &c. by a certain other

Averment that deed is in the poſſeſſion of adverſe party.

other indenture of bargain and ſale then and there made between the ſaid J. W. (by his, &c.) of the one part, and W. M. (by his, &c.) of the other part, which ſaid laſt-mentioned indenture is now in poſſeſſion of the ſaid Ann, ſo that the ſaid earl cannot bring the ſame into court here, he the ſaid J. W. for the conſiderations therein mentioned, bargained and ſold to the ſaid W. M. the ſaid manor, together with the aforeſaid advowſon of the rectory aforeſaid, ſo being appendant thereto as aforeſaid, and all other the appurtenances thereto belonging, to have and to hold the ſame unto the ſaid W. M. from the day of the date of the ſaid laſt-mentioned indenture unto the full end and term of one whole year from thence next enſuing, and fully to be complete and ended, as by the ſaid laſt-mentioned indenture more fully appears, by virtue whereof the ſaid W. M. became and was poſſeſſed of the ſaid manor and the advowſon, with the appurtenances, for the ſaid laſt-mentioned term; and being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid J. W. as aforeſaid, he the ſaid J. W. afterwards, to wit, on, &c. by a certain other indenture then and there made between the ſaid J. W. (by his, &c.) of the one part, and the ſaid W. M. (by his, &c.) of the other part, which ſaid laſt-mentioned indenture ſealed with the ſeal of the ſaid J. W. is in the poſſeſſion of the ſaid Ann, ſo that the ſaid earl cannot bring the ſame into court here, granted and releaſed to the ſaid W. M. his heirs and aſſigns for ever the ſaid reverſion of the ſaid manor and advowſon, with the appurtenances, to have and to hold the ſame unto the ſaid W. M. his heirs and aſſigns for ever, as by the ſaid laſt-mentioned indenture more fully appears, by virtue whereof, and by force of the ſtatute made for transferring uſes into poſſeſſion, he the ſaid W. M. then and there became and was ſeiſed in his demeſne as of fee of and in the ſaid manor, and as of fee and right of and in the ſaid advowſon, and ſo being appendant thereto as aforeſaid, with the appurtenances, and ſo remained and continued from thence until and at the time of the making of the ſaid indenture of leaſe and releaſe thereof to the ſaid earl as hereafter mentioned: And the ſaid earl in fact further ſaith, that the ſaid W. M. being ſo ſeiſed of the ſaid manor and advowſon as aforeſaid reſpectively, and the ſaid advowſon being ſo appendant to the ſaid manor as aforeſaid, whilſt the ſaid W. M. was ſo ſeiſed, and whilſt the advowſon was ſo appendant to the ſaid manor, to wit, on, &c. in, &c. at, &c. by a certain indenture of bargain and ſale then and there made between the ſaid W. M. and Jane his wife, (by their names, &c.) of the one part, and the ſaid earl, (by his name, &c.) of the other part, which ſaid laſt-mentioned indenture is now in the poſſeſſion of the ſaid Ann, ſo that the ſaid earl cannot bring the ſame into court here, he the ſaid W. M. for the conſiderations therein mentioned, bargained and ſold to the ſaid earl the ſaid manor, together with the aforeſaid advowſon of the rectory aforeſaid ſo being appendant thereto as aforeſaid, and all other the appurtenances thereto belonging, to have and to hold the ſame unto the ſaid earl from the day of the

date of the ſaid indenture until the full end and term of one whole year from thence next enſuing and fully to be complete and ended, as by the ſaid laſt-mentioned indenture more fully appears; by virtue whereof the ſaid earl became and was poſſeſſed of the ſaid manor and the advowſon, with the appurtenances, for the ſaid laſt-mentioned term; and being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid W. M. as aforeſaid, he the ſaid W. M. afterwards, to wit, on, &c. by a certain other indenture then and there made between the ſaid W. M. and Jane his wife (by, &c.) of the one part, and the ſaid earl (by, &c.) of the other part (which ſaid, &c. as before), granted and releaſed to the ſaid earl, his heirs, and aſſigns, for ever, the ſaid reverſion of the ſaid manor and advowſon, with the appurtenances, to have, &c. the ſame unto the ſaid earl, his heirs, and aſſigns, as by the laſt-mentioned indenture more fully appears; by virtue whereof, and by force of the ſtatute made for transferring uſes into poſſeſſion, he the ſaid earl then and there became and was, and from thenceforth hitherto hath been, and ſtill is ſeiſed in his demeſne as of fee of and in the ſaid manor, and as of fee and of right of and in the ſaid advowſon ſo being appendant thereto as aforeſaid, with the appurtenances, for which reaſon he the ſaid earl prevented, and at preſent hinders the ſaid Ann from preſenting a fit perſon to the ſaid church; and this, &c.; wherefore, &c. if, &c.; and he alſo thereupon prays a writ to the biſhop, &c.

GILES ROOKE.

Replication to biſhop's plea.

And the ſaid Ann, as to the ſaid plea of the ſaid biſhop (inaſmuch as he hath not nor claimeth to have any thing in the ſaid church, or in the advowſon thereof, except the admiſſion, inſtitution, and induction of parſons to the ſaid church, and what other rights belong to an ordinary, as ordinary of that place), prays judgment againſt the ſaid biſhop, and a writ to the ſaid biſhop, &c.; therefore it is conſidered that the ſaid Ann recover againſt the ſaid biſhop her preſentation to the ſaid church, and that ſhe have a writ to the ſaid biſhop, that notwithſtanding his diſclaimer, he admit a fit perſon to the ſaid church on the preſentation of the ſaid A.; and the ſaid biſhop is not amerced, becauſe he hath excuſed himſelf of any particular diſturbance, but let execution thereof be ſtayed until the ſaid plea between the ſaid Ann and the ſaid earl be determined, &c.: And the ſaid Ann, as to the plea of the ſaid earl by him above pleaded in bar, ſays, that by reaſon of any thing therein alledged ſhe the ſaid Ann ought not to be barred from having and maintaining her aforeſaid action againſt the ſaid earl; becauſe he as before ſays, that the ſaid ſir J. D. deceaſed, in his lifetime, and before the preſentation of the ſaid G. G. to the church aforeſaid by the ſaid ſir J. G. in the ſaid declaration of the ſaid Ann mentioned, was ſeiſed of the ſaid manor of K. with its appurtenances, to which manor the advowſon of the ſaid rectory then belonged in his demeſne as of fee, and being ſo ſeiſed of the ſaid manor, with the advowſon appendant thereto, until the ſaid ſir J. D.

To plea of pſeudo patron.

J. D. bargained and ſold the ſaid advowſon to the ſaid T. M. his heirs, and aſſigns for ever, in manner and form as the ſaid Ann hath in her ſaid declaration above alledged; without this, that the ſaid ſir J. D. bargained and ſold the ſaid manor, with the appurtenances, and granted or releaſed the reverſion thereof to the ſaid J. W. in manner and form as the ſaid earl hath in his ſaid plea above alledged; and this, &c.; wherefore inaſmuch as the ſaid earl hath above acknowledged that he hath hindered, and ſtill doth hinder the ſaid Ann from preſenting to the ſaid church, the ſaid Ann prays judgment and her damages by reaſon of the ſaid hindrance, together with a writ to the biſhop, to be adjudged, &c.

Traverſe of grant of manor.

C. RUNNINGTON.

And as to the ſaid plea of the ſaid Ann by her above pleaded by way of reply to the ſaid plea of the ſaid earl by him above pleaded in bar, he the ſaid earl ſays (*actio non*); becauſe he ſays as before, that the ſaid ſir J. D. bargained and ſold the ſaid manor, with the appurtenances, and granted and releaſed the reverſion thereof to the ſaid J. W. in manner and form as the ſaid earl hath above in his ſaid plea alledged; without this, that the ſaid ſir J. D. being ſo ſeiſed of the ſaid manor with the ſaid advowſon appendant thereto as aforeſaid, remained and continued ſo ſeiſed of the ſaid manor with the advowſon appendant thereto until the ſaid J. D. bargained and ſold the ſaid advowſon to the ſaid T. M. his heirs, and aſſigns for ever, as the ſaid Ann hath in her ſaid declaration above alledged; and this, &c.; wherefore, &c. if, &c.; and that he may have a writ to the biſhop, &c.

Rejoinder.

Traverſe that ſir J. D. continued ſeiſed of manor till, &c.

GILES ROOKE.

And the ſaid earl ſays nothing in bar or preclusion of the ſaid action in bar or preclusion of the ſaid plea of the ſaid Ann by her above by way of reply pleaded to the plea of the ſaid earl by him above pleaded in bar, but departs in contempt of the court, whereby the ſaid Ann remains therein undefended againſt the ſaid earl; therefore it is conſidered that the ſaid Ann do recover againſt the ſaid earl her preſentation to the rectory aforeſaid, and that ſhe have a writ to the biſhop of Carliſle, the ordinary of the ſaid rectory, that he notwithſtanding his diſclaimer or the claim of the ſaid earl do on the preſentation of the ſaid Ann admit a fit perſon to the rectory aforeſaid, &c.; and the ſaid earl be in mercy, &c.; but becauſe it is unknown whether the ſaid church is ſtill vacant, and whether ſix months have paſſed ſince the death of the ſaid G. G. and what is the value of the ſaid church by the year; therefore it is commanded to the ſheriff of the ſaid county of C. that by the oath of twelve good and lawful men of his bailiwick he diligently enquire whether the ſaid church is vacant or not, and if it is not vacant upon whoſe preſentation it is full, and whether the ſpace of ſix months has elapſed ſince the death of the ſaid G. G. and what is the value of the ſaid church by the year according to the true value thereof, and that the inquiſition that he ſhall therefore

Judgment by *nil dicit* againſt defendant.

Writ to the biſhop.

Writ of enquiry of four uſual points, and *aſſet executio* as to the biſhop.

therefore take, he make appear under his ſeal and the ſeals of thoſe by whoſe oath he ſhall make ſuch inquiſition to the juſtices of our lord the king at Weſtminſter, on the morrow of All Souls now next following, and that he have there the writ of our ſaid lord the king to him in that behalf to be directed, and in the mean time let the execution of the writ to the biſhop ceaſe.

(a) Writ of error in *quare impedit* following.

YORKSHIRE to wit: Our lord the king hath commanded his truſty and well-beloved ſir John Willes, knight, his chief juſtice of the bench by his cloſe writ in theſe words: George the Second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, &c. to his truſty and well-beloved ſir John Willes, knight, his chief juſtice of the bench, greeting: Foraſmuch as in the record and proceſs, and alſo in giving of judgment in a plaint which was in court before you and your aſſociates, our judges of the bench, between us and Thomas, archbiſhop of York, Charles Hayes, eſq. and George Barber, clerk; for that the ſaid Thomas, late archbiſhop of York, now archbiſhop of Canterbury, Charles and George hinder us to preſent a fit perſon to the church of Ryther, otherwiſe Ryder, which is void and in our gift, as it is ſaid manifeſt error hath intervened to the great damage of us, whereof we complain; we, willing that the ſaid error (if any be) be duly amended and full and ſpeedy juſtice done to the ſaid parties in this behalf, do command you that if judgment be given thereupon then you ſend to us diſtinctly and plainly under your ſeal the record and proceſs of the ſaid plaint, with all things touching the ſame, ſo that we may have them from the day of Saint Michael in three weeks wheresoever we ſhall then be in England, that inſpecting the record and proceſs aforeſaid we may cauſe further to be done thereupon for amending the ſaid error, as of right and according to the law and cuſtom of England ſhall be meet to be done. Witneſs, Thomas, archbiſhop of Canterbury and other guardians and juſtices of the kingdom at Weſtminſter, the twenty-ſixth of June, in the twenty-fourth year of our reign. KING.

The anſwer of ſir John Willes, knight, chief juſtice within-named, the record and proceſs of the plaint within-mentioned, with all things touching the ſame, I ſend before our lord the king, whereſoever, &c. at the day within contained in a certain record to this writ annexed, as I am within commanded.

JOHN WILLES.

Pleas inrolled at Weſtminſter before ſir John Willes, knight, and his brethren, juſtices of his majeſty's court of common bench of Hilary term, in the twenty-firſt year of the reign of our ſovereign lord George the Second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, &c. Roll. 772, 3, 4, 5, 6, 7, 8.

(a) See Error, proceedings, *ante*.

YORKSHIRE

THE ATTORNEY GENERAL *againſt* THE ARCHBISHOP OF YORK, CHARLES HAYES, AND GEORGE BARBER. } YORKSHIRE to wit: [The declaration ſets forth that John Robinſon was ſeiſed of the manor of Ryder in the county of York, to which the advowſon of the ſaid church was appendant in his demeſne as of fee, and that in Trinity term, ſixteenth Charles the Firſt, a fine was levied between John Searle and others, plaintiffs, and the ſaid John Robinſon and Rachael his wife, defendants of the ſaid manor and appurtenances.] Be it remembered, that heretofore, to wit, in the term of Saint Michael, in the eighteenth year of the reign of his preſent majeſty king George the Second, Rolls 1095, 1096, 1097, 1098, 1099, 1100, and 1101, it is thus contained: Yorkſhire to wit, Thomas, archbiſhop of York, Charles Hayes, eſq. and George Barber, clerk, were ſummoned to anſwer to the lord the king in a plea that they permit him to preſent a fit perſon to the church of Ryther, alias Ryder, which is void and in his gift, &c.: And whereupon the ſaid lord the king, by ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who for our ſaid lord the king proſecutes, ſays, that John Robinſon, eſq. was ſeiſed of the manor of Ryther, alias Ryder, &c. with the appurtenances in the county of York aforeſaid, to which the advowſon of the ſaid church was appendant in his demeſne as of fee, and being ſo ſeiſed thereof in the term of the Holy Trinity in the ſixteenth year of the reign of the late king Charles the Firſt of England, &c. a fine was levied in due form of law in the court of the ſame king of the bench here at Weſtminſter, in the county of Middleſex, before Edward Lyttleton, Francis Crawley, Edward Reeve, and Robert Forſter, juſtices and other faithful ſubjects of the ſaid late king then there preſent, between John Searle, eſq. Gervaſe Hammond, eſq. Richard Robinſon, eſq. and Randal Buſcoe, gentleman, plaintiffs, and the ſaid John Robinſon and Rachael his wife, defendants of the ſaid manor, with the appurtenances, to which, &c. by the names of the manor of Ryther, otherwiſe, &c. with the appurtenances, and twelve meſſuages, twelve cottages, three barns, one windmill, one dove-houſe, one garden, three orchards, eight hundred acres of land, one hundred and eighty acres of meadow, two hundred acres of paſture, two hundred acres of wood, and five hundred acres of furze and heath with the appurtenances in Ryther, alias, &c. and Stockbridge field, and alſo of the free fiſhery in the water of Wharfe, whereupon a plea of covenant was ſummoned between them in the ſame court, to wit, that the ſaid John Robinſon and Rachael had acknowledged the ſaid manor, tenements, and fiſhery, with the appurtenances, to be the right of the ſaid John Searle, as thoſe which the ſaid John, Gervaſe, Richard, and Randal had of the gift of the ſaid John Robinſon and Rachael, and thoſe they had remiſed and quit claimed from the ſaid John Robinſon and Rachael, and the heirs of the ſaid John Searle, Gervaſe, Richard, and Randal, and the heirs of the ſaid John Searle for ever: And moreover the ſaid John Robinſon and Rachael

Declaration in *quare impedit* by attorney general.

Rachael had granted for themſelves and the heirs of the ſaid John Robinſon, that they would warrant to the ſaid John Searle, Gervaſe, Richard, and Randal, and to the heirs of the ſaid John Searle, the ſaid manor, tenements, and fiſhery, with the appurtenances, againſt all men for ever, as by the ſaid fine in the court of our lord the preſent king of the bench here, to wit, at Weſtminſter aforeſaid remaining on record more fully appears, which ſaid fine in form aforeſaid levied and had was as to the ſaid manor with the appurtenances, to which, &c. had and levied to the uſe of the ſaid John Robinſon, for and during the term of his natural life without impeachment of waſte, and from and after his deceaſe to the uſe of John Robinſon, ſon and then heir apparent of the ſaid John Robinſon the cognizor, and Rachael his wife, and the heirs male of the body of the ſaid John Robinſon, the ſon lawfully begotton or to be begotten, and for default of ſuch iſſue to the uſe of William Robinſon, ſecond ſon of the ſaid John Robinſon the cognizor, and Rachael, and the heirs male of the body of the ſaid William, lawfully begotten or to be begotten, and for default of ſuch iſſue to the uſe of the right heirs of the ſaid John Robinſon the cognizor for ever, to wit, at Ryther, alias Ryder aforeſaid, by virtue of which fine, and by the force of the ſtatute for transferring of uſes into poſſeſſion, the ſaid John Robinſon the cognizor was ſeiſed of the ſaid manor, with the appurtenances, to which, &c. in his demeſne as of freehold for the term of his natural life, the remainder thereof after the death of the ſame John Robinſon belonging to the ſaid John Robinſon, his ſon, and the heirs male of his body, lawfully begotten or to be begotten, the further remainder thereof in form aforeſaid belonging: And the ſaid John Robinſon the cognizor being ſo ſeiſed of the ſaid manor, with the appurtenances, to which, &c. and the further remainder thereof belonging as aforeſaid, he the ſaid John Robinſon the cognizor afterwards, to wit, at Ryther, alias Ryder aforeſaid, died ſeiſed of ſuch his laſt-mentioned eſtate therein, after whoſe deceaſe the ſaid J. Robinſon his ſon entered into the ſaid manor, with the appurtenances, to which as in his ſaid remainder thereof, and was ſeiſed thereof in his demeſne as of fee tail, to wit, to him and the heirs male of his body lawfully begotten or to be begotten the further remainder in form aforeſaid belonging; and the ſaid John Robinſon being ſo ſeiſed another fine was levied in the court of the bench at Weſtminſter aforeſaid in the term of Saint Michael, in the year of Our Lord 1658, before Oliver St. John, and Edward Atkins, juſtices, and others then there preſent, between William Robinſon, gentleman, and Thomas Fairfax, gentleman, plaintiffs, and the ſaid John Robinſon the ſon, and Margaret his wife, Francis Baynton, baronet, and Richard Robinſon, eſquire, defendants of the ſaid manor, with the appurtenances, to which, &c. by the names of the manor of Ryther, alias Ryder, with the appurtenances, and nine meſſuages, ſix cottages, three dove-houſes, nine gardens, nine orchards, ſix hundred and thirty acres of land, one hundred acres of meadow, ſeven

To the uſe of the ſaid John Robinſon for life *ſans* waſte; remainder to John Robinſon his ſon in tail; remainder to William Robinſon the ſaid ſon in tail male; remainder to the right heir of John Robinſon the cognizor.

That John Robinſon the cognizor died, and John Robinſon the ſon entered and was ſeiſed.

ſeven hundred acres of paſture, with the appurtenances, in Ryther, alias Ryder Hill, whereupon a plea of covenant was ſummoned between them in the ſame court, to wit, that the ſame John and Margaret, Francis and Richard, had acknowledged the manor and tenements aforeſaid, with the appurtenances, to be the right of the ſaid William, as thoſe which the ſaid William and Thomas *had of the gift of the ſame John and Margaret, Francis and Richard*, and thoſe they had remiſed and quit claimed from the ſaid John and Margaret, Francis and Richard and their heirs, to the ſaid William and Thomas, and the heirs of the ſaid William for ever: And moreover the ſame John and Margaret, Francis and Richard had granted for themſelves and the heirs of ſaid John, that they would warrant to the ſaid William and Thomas, and the heirs of the ſaid William, the ſaid manor and tenements, with the appurtenances, againſt them the ſaid John and Margaret, Francis and Richard, and the heirs of the ſame John for ever, which laſt-mentioned fine in form aforeſaid levied and had was as to the ſaid manor, with the appurtenances, to which, &c. levied and had to the uſe of the ſaid John Robinſon for and during the term of his natural life without impeachment of waſte, and from and immediately after his deceaſe, then to the uſe of the ſaid Margaret for her natural life, and immediately after the death of the ſaid Margaret, then to the uſe of John Robinſon the younger, eldeſt ſon of the ſaid John Robinſon the ſaid laſt-mentioned cognizor, on the body of the ſaid Margaret begotten of the heirs male of the body of the ſaid John Robinſon, the ſon of the ſaid John Robinſon the ſaid laſt-named cognizor lawfully begotten or to be begotten, and for default of ſuch iſſue to the uſe of Charles Robinſon, ſecond ſon of the ſaid John Robinſon the ſaid laſt-named cognizor, upon the body of the ſaid Margaret lawfully begotten, and the heirs male of the body of the ſame Charles lawfully begotten or to be forgotten, and for default of ſuch iſſue to the uſe of every other ſon of the ſaid John Robinſon the laſt named cognizor, upon the body of the ſaid Margaret lawfully begotten or to be begotten ſucceſſively according to their ſeveral ſeniorities, and of the heirs male of the body of every ſuch other ſon ſucceſſively, and for default of ſuch iſſue to the uſe of the ſaid Francis Boynton and Richard Robinſon, and the ſurvivor of them, and the executors, adminiſtrators, and aſſigns of ſuch ſurvivor for the term of ſixty years, to commence immediately after the deceaſe of the ſaid John Robinſon the laſt-named cognizor, and Margaret, without iſſue male of the ſaid John upon the body of the ſaid Margaret begotton, and after the determination of the ſaid term, then to the uſe of the right heirs of the ſaid John Robinſon the laſt-named cognizor, to wit, at Ryther, alias, &c. aforeſaid, by virtue of which laſt-mentioned fine, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid John Robinſon, the ſaid laſt-named cognizor, was ſeiſed of the ſaid manor, with the appurtenances, to which, &c. in his demeſne as of freehold for the term of his natural life, the remainder thereof to the ſaid Margaret

A fine *ſur cognuzance come ceo que il ad de ſon doné.* This is the beſt kind of fine and the ſureſt, and is ſaid to be a feoffment of record, the livery thus acknowledged in court being equivalent to an actual livery.

To the uſe of the ſaid John Robinſon for life.

Remainder to the ſaid Margaret his wife for life.

Remainder to J. Robinſon his ſon in tail male.

Remainder to Charles Robinſon his ſecond ſon in tail male.

Remainder to every other ſon in tail male.

Remainder to F. Boynton and Rd. Robinſon for ſixty years, to commence on the death of J. Robinſon the laſt cognizor.

Remainder to the right heirs of John Robinſon the laſt cognizor.

Preſentment.

garet for the term of her natural life, and remainder thereof to the ſaid John Robinſon her ſon, and the heirs male of his body iſſuing, the further remainder thereof in form aforeſaid belonging and being ſo ſeized of the ſaid manor, with the appurtenances, to which, &c. preſented to the church being vacant Robert Morret, his clerk, who upon that preſentation of him the ſaid John Robinſon, the ſaid laſt-named cognizor, was admitted, inſtituted, and inducted into the ſame in the time of peace in the time of the late lord Charles the Second, late king of England, &c. and the ſaid John Robinſon the ſaid laſt-named cognizor being ſo ſeiſed of the ſaid manor, with the appurtenances, to which, &c.: And the ſaid church being full and provided for of the ſaid Robert Morret, parſon and incumbent thereof, he the ſaid John Robinſon afterwards, to wit, on the fourth of March, in the twenty-firſt year of the reign of the ſaid late king Charles the Second at Ryther, alias &c. aforeſaid, by an indenture then and there made between him the ſame John Robinſon, by the name of John Robinſon of Ryther, alias, &c. in the county of York, eſquire, on the one part, and Michael Warton of Beverley in the county aforeſaid, knight, on the other part, and afterwards and within ſix months then next following, in the court of chancery of the ſaid late king Charles the Second, the ſaid chancery then being at Weſtminſter aforeſaid in due manner according to the form of the ſtatute inrolled of record, the one part of which ſaid indenture ſealed with the ſeal of the ſame John Robinſon, the ſaid attorney general brings here into court, the date whereof is the ſame day and year, for and in conſideration of the ſum of one hundred pounds of current Engliſh money to him in hand paid by the ſaid ſir Michael, granted, bargained, and ſold to the ſaid ſir Michael, his heirs and aſſigns, the ſaid advowſon by the name of all that advowſon, patronage, and right of patronage, and perpetual diſpoſition of the pariſh church of Ryther, alias Ryder, in the ſaid county of York, to have and to hold to the ſaid ſir Michael, his heirs and aſſigns for ever; by virtue of which bargain and ſale and inrollment thereof, and alſo by force of the ſaid ſtatute for transferring of uſes into poſſeſſion, the ſaid ſir Michael was ſeiſed of the ſaid advowſon as in one in groſs by itſelf in his demeſne as of freehold for the natural life of the ſaid John Robinſon the ſaid laſt-named cognizor, the remainder thereof belonging to the ſaid Margaret for her natural life, with remainder thereof to the ſaid John Robinſon her ſaid ſon, and the heirs male of his body, the further remainder thereof in form aforeſaid belonging, and the reverſion thereof to the ſaid ſir Michael and his heirs belonging; and the ſaid ſir Michael being ſo ſeiſed thereof, and the ſaid church being full and provided for as aforeſaid, to wit, in the octaves of Saint Hilary, in the twenty-firſt year of the ſaid late king Charles the Second of England, &c. a

That John Robinſon the laſt cognizor preſented Robert Morret his clerk to the ſaid church being void, who was thereon inſtituted and inducted.

That the ſaid J. Robinſon the laſt cognizor, on fourth March, 21. Car. 2. by indenture between him on the one part, and ſir Michael Warton on the other, (afterwards inrolled) bargained and ſold the ſaid advowſon to the ſaid ſir Michael.

To hold to him and his heirs for ever.

By reaſon whereof the ſaid ſir Michael was ſeiſed of the ſaid advowſon as of one in groſs in his demeſne as of freehold for the life of the ſaid J. Robinſon, the remainder thereof belonging in form aforeſaid.

And the reverſion thereof belonging to ſaid ſir Michael and his heirs in Hilary Term, twenty firſt Charles the Second, another fine was levied between the ſaid ſir Michael, plaintiff, and the ſaid J. Robinſon the laſt cognizor, defendant of the ſaid advowſon.

and

fine was levied in due form of law in the court of the ſame king of the bench here at Weſtminſter aforeſaid, before John Vaughan, Thomas Terrel, John Archer, and William Wilde, juſtices and other faithful ſubjects of the ſame king then there preſent, between the ſaid ſir Michael Warton, knight, plaintiff, and the ſaid John Robinſon the ſon of the firſt-named John Robinſon, by the name of John Robinſon, eſq. *defendant* (it ought to be *deforciant* in levying a fine) of the ſaid advowſon amongſt other things by the name of the rectory of Ryther, alias Ryder, with the appurtenances, and of the advowſon of the church of Ryther alias Ryder, whereupon a plea of covenant was ſummoned between them in the ſame court, to wit, that the ſame John had acknowledged the ſaid rectory, with the appurtenances, and the ſaid advowſon of be the right of him the ſaid Michael, as that which the ſame Michael had of the gift of the ſaid John; and that he had remiſed and quit claimed from himſelf and his heirs to the ſaid Michael and his heirs for ever: And moreover the ſame John had granted for himſelf and his heirs, that they would warrant to the ſaid Michael and his heirs the ſaid rectory, with the appurtenances, and the advowſon aforeſaid, againſt the ſaid John and his heirs for ever, and for that acknowledgment, remiſſion, quit claim, warranty, fine, and concord, the ſame Michael gave to the ſaid John one hundred pounds ſterling, which ſaid fine in form aforeſaid levied was afterwards in the ſame court according to the form of the ſtatute in the parliament of the late king Henry the Seventh of England, after the conqueſt, at Weſtminſter aforeſaid, in the fourth year of his reign there made and provided, publicly and ſolemnly read and proclaimed according to the form of the ſame in manner following, to wit: The firſt proclamation was made on the twelfth of February in the ſaid term of St. Hilary, in the ſaid twenty-firſt year of the ſame king Charles the Second of England; the ſecond proclamation was made on the ninth day of May in Eaſter term, in the twenty-ſecond year of the king aforeſaid; the third proclamation was made on the eighth day of June in the term of the Holy Trinity, in the ſaid twenty-ſecond year of the king aforeſaid; the fourth proclamation was made on the twenty-ſeventh day of October in the term of Saint Michael, in the ſaid twenty-ſecond year of the king aforeſaid, as by the ſame fine and the proclamations, upon the ſame fine made remaining in the court here of record, more fully appears: And the ſaid attorney general further ſaith, that the ſaid ſir Michael afterwards, to wit, on the twenty-third of Auguſt, in the twenty-ſecond year of the reign of the ſame king, by a certain indenture then and there made between the ſaid ſir Michael, by the name of ſir Michael Warton of Beverley in the county of York, knight, of the one part, and Michael Warton of the ſame town and country aforeſaid, eſquire, of the other part, and ſealed with the ſeal of the ſaid ſir Michael, for a certain ſum of current Engliſh money in hand paid by the ſaid advowſon to the ſaid Michael Warton, to hold to him his heirs and aſſigns

Demandant and *tenant* are the terms made uſe of in ſuffering a recovery, the parties in ſuffering a recovery being demandant, tenant and vouchee, but in levying a fine plaintiff and deforciant.

That on the twenty-third of Auguſt, 22. Car. 2. ſir Michael, by an indenture made between him on the one part, and Michael Warton on the other, granted for ever.

ſaid

But that the last indenture could not be brought into court by reason it was casually lost and not then found, but the substance thereof is contained in the inrollment next mentioned.

That on the tenth of October, 22. Car. 2. the said sir Michael died, leaving the said Michael his heir without making conveyance or devise of the said advowson.

said sir Michael Warton, granted unto the said Michael Warton, the said advowson, to have and to hold the said advowson unto the said Michael Warton, his heirs and assigns for ever: And the same attorney general saith, that he cannot bring the same indenture into court here sealed with the seal of the said sir Michael, by reason that the same indenture was casually lost at Ryther, alias, &c. aforesaid, and as yet is not found; but the said attorney general saith, that all the substance of the said indenture is contained in the record of the inrollment next hereinafter mentioned, as hereinafter is expressed, and saith, that after the making of the said indenture before-mentioned to be lost, to wit, on the tenth of October in the same twenty-second year of the reign of the said king Charles the Second, at Ryther, alias, &c. aforesaid, the said sir Michael died, leaving the said Michael his son and heir, without making any other conveyance or any devise of or relating to the said advowson; and the said Michael Warton being seised of the said advowson as of a reversion of one in gross by itself as of fee and right, afterwards, to wit, on the nineteenth of November, in the same twenty-third year of the reign of the said late king Charles the Second, at Ryther, alias, &c. by indenture then and there made between him the said late king Charles the Second of the one part, and the said Michael Warton of the other part, and afterwards on the sixteenth of December in the same year, and within six months then next following in due manner of record according to the form of the statute inrolled in the court of chancery of him the same late king, the said chancery then being at Westminster aforesaid, and sealed with the seal of the said Michael, which same indenture the said attorney general now brings into court, the date whereof is the said nineteenth of November, reciting therein the substance of the said indenture before-mentioned to be lost as followeth, to wit, that by indenture bearing date the fourth day of March, in the twenty-first year of his said majesty's reign, made between John Robinson of Ryther, alias Ryder, in the county of York, esquire, on the one part, and sir Michael Warton of Beverley, in the county aforesaid, knight, of the other part; the said John Robinson in consideration of the sum of one hundred pounds of current English money to him in hand paid or mentioned to be paid by the said sir Michael Warton before the ensealing and delivery of the same indenture, did by the same indenture grant, bargain, and sell unto the said sir Michael Warton, his heirs and assigns, all that advowson, patronage, right of patronage, and perpetual disposition of the parish church of Ryther, alias Ryder, in the said county of York, with all its rights, members, and appurtenances to the same belonging, or in anywise appertaining, and all the estate, right, title, interest, claim, and demand whatsoever of him the said John Robinson of, in, and to the premises, and every or any part and parcel thereof; and the reversion and reversions, remainder and remainders, together with the revenues and profits of the premises, and every part and parcel thereof, to have and to hold the said advowson, patronage, and

perpetual

perpetual diſpoſition of the pariſh church of Ryder, alias Ryther, therein before mentioned and intended to be thereby granted, with their and every of its rights, members, and appurtenances, unto the ſaid ſir Michael Warton, his heirs and aſſigns, to the only proper uſe and behalf of the ſaid ſir Michael Warton, his heirs and aſſigns for ever, as by the ſaid indenture amongſt other things therein contained, relation being thereto had more fully and at large it did and might appear; and that by an indenture bearing date the twenty-third of Auguſt, in the twenty-ſecond year of his ſaid majeſty's reign, made between ſir Michael Warton of Beverley, in the county of York, knight, of the one part, and Michael Warton of the ſame town and county aforeſaid, eſquire, of the other part; the ſaid ſir Michael Warton for and in conſideration of a certain ſum of current Engliſh money to him in hand paid before the ſealing and delivery thereof, did by the ſame indenture grant, bargain, and ſell unto the ſaid ſir Michael Warton, his heirs and aſſigns, all that advowſon, patronage, right of patronage, and perpetual diſpoſition of the pariſh church of Ryder, alias Ryther, in the ſaid county of York, with all its rights, members, and appurtenances to the ſame belonging, or in any other ways appertaining, and all the eſtate, right, title, intereſt, claim, and demand whatſoever of him the ſaid ſir Michael Warton of, in, and to the premiſes, and of every or any part or parcel thereof, and the reverſion and reverſions, remainder and remainders, together with the revenue and profits of the ſame premiſes, and of every or any part or parcel thereof, to have and to hold the ſaid advowſon, patronage, right of patronage, and perpetual diſpoſition of the pariſh church of Ryder, alias, &c. therein before mentioned and intended to be thereby granted, with their and every of its rights, members, and appurtenances, unto the ſaid Michael Warton, his heirs and aſſigns for ever, as by the ſaid indenture amongſt other things therein contained, relation being thereto had more fully and at large it did and might appear, &c. and that for and in conſideration of a competent ſum of money by him the ſaid late king Charles the Second, to him the ſaid Michael Warton in hand paid, granted, bargained, and ſold unto him the ſaid late king Charles the Second, the advowſon of the ſaid church, to have and to hold unto him the ſaid late king Charles the Second, his heirs and ſucceſſors, by virtue of which bargain and ſale, and of the ſame inrollment, and alſo by force of the ſaid ſtatute made for transferring uſes into poſſeſſion, the late king Charles the Second was ſeiſed of the reverſion of the ſaid advowſon as of one in groſs, by itſelf as of fee and right, in right of his crown of England; and the ſaid late king Charles the Second being ſo thereof ſeiſed, the ſaid William Robinſon afterwards, to wit, on the tenth of November, in the twenty-eighth year of the reign of the ſame king, at Ryder, alias Ryther, &c. aforeſaid, died without any iſſue male of his body, after which, to wit, on the twentieth of February 1676, the ſaid John Robinſon, huſband of the ſaid Margaret,

States another fine levied to king Charles the Second.

garet, died at Ryder, alias, &c. aforeſaid; and afterwards, to wit, on the fourth of Auguſt 1680, at Ryder, alias, &c. aforeſaid, the ſaid John Robinſon, ſon of the ſame John Robinſon and Margaret, died with iſſue male of his body; and afterwards the ſaid late king Charles the Second, at Ryder, alias, &c. aforeſaid, died ſeiſed of the ſaid reverſion of the ſaid advowſon as of one in groſs, as of fee and right in right of his crown of England without iſſue of his body, after whoſe death his ſaid reverſion of the ſaid advowſon as of one in groſs by itſelf deſcended to James the Second, late king of England, as brother and heir of the ſaid late king Charles the Second, by reaſon whereof the ſaid late king James the Second was ſeiſed of the ſaid reverſion of the ſaid advowſon as of a reverſion of one in groſs of itſelf as of fee and right in right of his crown of England; and the ſaid late king James the Second being ſo ſeiſed thereof abdicated the government and diſmiſſed himſelf from the government of the kingdom of England, and crown and dignity of England and departed, ſo that the crown of England became vacant; and afterwards, to wit, on the thirteenth of February 1688, the lord William, and lady Mary, lawfully, rightfully, in due manner, and of right, became and were king and queen of England, and by reaſon whereof the ſaid king William and queen Mary were ſeiſed of the ſaid reverſion of the ſaid advowſon as of a reverſion of one in groſs by itſelf as of fee and right, in right of their crown of England; and the ſame king and queen being ſo ſeiſed thereof, the ſame queen afterwards at Ryder, alias, &c. aforeſaid, died without heir of her body, after whoſe death the ſaid late king William was ſeiſed of the ſaid reverſion of the ſaid advowſon as of a reverſion of one in groſs, by itſelf as of fee and right in right of his crown of England, and afterwards, to wit, on the twenty-fifth of March 1700, at Ryder, alias, &c. aforeſaid, the ſaid Charles Robinſon died, leaving Charles Robinſon, gentleman, his ſon and heir, and no other iſſue male of his body; and afterwards, to wit, on the firſt of May 1700, at Ryder, alias, &c. aforeſaid, the ſaid Margaret died; and afterwards on the tenth of May in the ſaid year, at, &c. the ſaid Charles Robinſon, gentleman, died without any iſſue male of his body, upon whoſe death all iſſue male of the bodies of the ſaid John Robinſon the ſaid laſt-mentioned cognizor, and Margaret his wife, totally failed, to wit, at Ryder, alias, &c. aforeſaid; and the ſaid late king William being then ſeiſed of the ſaid advowſon as of one in groſs, by itſelf as of fee and right, in right of his crown of England, the ſaid church became void by the death of the ſaid Robert Morrett, and being ſo void, the late king William being ſo ſeiſed of the ſaid advowſon in form aforeſaid, the ſaid late king William afterwards, to wit, at Ryder, alias, &c. aforeſaid, the ſaid church remaining void, died ſeiſed of ſuch his ſaid eſtate in the ſaid advowſon without heirs of his body, after whoſe death the lady Anne, lawfully and rightfully, in due manner, and of right became and was queen of England, &c. and was ſeiſed of the ſaid

advowſon

advowſon of the ſaid church as of one in groſs, by itſelf as of fee and right in right of her crown of England; and the ſaid church ſo remaining void by the death of the ſaid Robert Morrett, it belonged to her the ſaid lady, late Queen Anne, to preſent a fit perſon to the ſaid church ſo void, and one John Cole uſurping upon the ſaid lady queen Anne preſented to the ſaid church ſo void William Elſeley, clerk, who upon the preſentation of the ſaid John Cole, was admitted, inſtituted, and inducted into the ſame; and the ſaid late lady queen Anne being ſo ſeiſed of the ſaid advowſon as of fee and right, in right of her crown of Great Britain, died without heir of her body, after whoſe death the late lord king George the Firſt lawfully, rightfully, and in due manner, and of right became and was king of Great Britain, &c. and was ſeiſed of the ſaid advowſon as of one in groſs, by itſelf as of fee and right, in right of his crown of Great Britain; and the ſaid late king George the Firſt being ſo ſeiſed of the ſaid advowſon, afterwards died ſeiſed of ſuch his eſtate therein, upon whoſe death the lord king George the Second lawfully and rightfully, in due manner, and of right became and is now king of Great Britain, and became ſeiſed of the ſaid advowſon as of one in groſs, by itſelf as of fee and right, in right of his crown of Great Britain, and yet is ſeiſed thereof, and being ſo ſeiſed thereof, the ſaid church became void by the death of the ſaid William Elſeley, and yet is void by reaſon whereof it belongs to the ſaid lord the now king to preſent a fit perſon to the ſaid church ſo void: And *they the ſaid archbiſhop, Charles Hayes, and George Barber, unjuſtly hinder him* the ſaid lord the now king from preſenting a fit perſon to the ſaid church, whereupon the ſaid attorney general ſays, that the ſaid lord the now king is prejudiced, and hath damage to the value of twenty pounds, and this he is ready to verify: And the ſaid Thomas, archbiſhop of York, comes by Randal Wilmot, his attorney, and defends the wrong and injury when, &c. and prays leave thereupon to imparl here until within eight days of Saint Hilary; and the ſaid Charles Hayes and George Barber, by James Chamberlayne, their attorney, come and defend the wrong and injury, when, &c. and pray leave thereupon to imparl here until on the ſame day, and as well the ſaid Thomas, archbiſhop of York, as the ſaid Charles Hayes and George Barber have, &c.; and the ſame day is given to ſir Dudley Rider, knight, attorney general of the ſaid lord the king, who, &c. here, &c. at which day come here as well the ſaid ſir Dudley Rider, knight, attorney general of the ſaid lord the king, who, &c. as the aforeſaid Thomas, archbiſhop of York, and his ſaid attorney; and the ſaid Charles Hayes and George Barber, by their ſaid attorney, and upon this as well as the ſaid Thomas, archbiſhop of York, by his attorney aforeſaid, prays further leave thereupon to imparl here until from the day of Eaſter in fifteen days, as the ſaid Charles Hayes and George Barber, by their ſaid attorney, pray further leave thereupon to imparl here until on the ſame day, and as well the ſaid Thomas, archbiſhop of York, as the ſaid Charles Hayes and George Barber have it, &c.; and the ſame

Uſurpation.

The plaintiffs muſt ſhew diſturbance before the action brought, Hob. 199.

Imparlances.

day is given to the ſaid ſir Dudley Rider, knight, attorney general of the ſaid lord the king, who, &c. here, &c. (divers other imparlances) at which day come here as well the ſaid ſir Dudley Rider, knight, attorney general of the ſaid lord the king, who, &c. as the ſaid Thomas, archbiſhop of York by his ſaid attorney, and the ſaid Charles Hayes and George Barber by their ſaid attorney; and upon this the ſaid Thomas, archbiſhop of York, by his ſaid attorney, prays further leave thereupon to imparl here until from the day of Eaſter in fifteen days, and he hath it, &c.; and the ſame day is given to the ſaid ſir Dudley Rider, knight, attorney general of our ſaid lord the king, who in this behalf ſues for the ſaid lord the king, prays that the ſaid Charles Hayes and George Barber do anſwer to the ſaid declaration: And the ſaid Charles Hayes and G. Barber as before, by James Chamberlayne their attorney, come and defend the wrong and injury when, &c.; and the ſaid Charles Hayes ſays, that the ſaid lord the king ought not to have his aforeſaid action againſt him, becauſe he ſays, that true it is, that the ſaid John Robinſon, in his ſaid declaration firſt mentioned, was ſeiſed of the ſaid manor of Ryder, alias, &c. with the appurtenances, to which, &c. in his demeſne as of fee, and being ſo ſeiſed thereof in the ſaid term of the Holy Trinity in the ſixteenth year of the reign of his ſaid majeſty king Charles the Firſt, ſuch a fine was levied in due form of law in the ſaid court of the ſaid late king of the bench at Weſtminſter in the manner aforeſaid, with the appurtenances, to which, &c.; and that the ſame fine was as to the ſaid manor, with the appurtenances, to which, &c. had and levied to the uſe of the ſaid John Robinſon, for and during the term of his natural life without impeachment of waſte, and from and after his deceaſe, to the uſe of the ſaid John Robinſon, ſon and heir apparent of the ſaid John Robinſon the cognizor, and the ſaid Rachael his wife, and the heirs male of the body of the ſaid John Robinſon the ſon lawfully begotten or to be begotten, and for default of ſuch iſſue, to the uſe of William Robinſon, the ſecond ſon of the ſaid John Robinſon the cognizor and Rachael, and the heirs male of the body of the ſaid William Robinſon lawfully begotten or to be begotten, and for default of ſuch iſſue, to the uſe of the right heirs of the ſaid John Robinſon the cognizor for ever; and that by virtue of the ſaid fine, and by force of the ſtatute for transferring of uſes into poſſeſſion, the ſaid John Robinſon the cognizor was ſeiſed of the ſaid manor, with the appurtenances, to which, &c. in his demeſne as of freehold for the term of his natural life, remainder thereof after the death of the ſaid John Robinſon belonging to the ſaid John Robinſon his ſon and heir, and the heirs male of his body lawfully begotten or to be begotten, the further remainder thereof in form aforeſaid belonging: And the ſaid John Robinſon the cognizor being ſeiſed of the manor aforeſaid, with the appurtenances, to which, &c. the further remainder thereof belonging as aforeſaid, he the ſaid John Robinſon the cognizor died ſeiſed of ſuch his laſt-mentioned eſtate therein; and that after his deceaſe the ſaid John Robinſon his ſon entered into the aforeſaid

Patron's Plea.

ſaid manor, with the appurtenances, to which, &c. as in his ſaid laſt remainder thereof, and was ſeiſed thereof in his demeſne as of fee tail, to wit, to him and the heirs male of his body lawfully begotton or to be begotten the further remainder in form aforeſaid belonging; and that the ſaid John Robinſon being ſo ſeiſed ſuch other fine was levied in the ſaid court of the bench at Weſtminſter aforeſaid, in the term of Saint Michael, in the ſaid year of Our Lord 1658, of the manor aforeſaid, with the appurtenances, to which, &c.: And the ſaid attorney general of our ſaid lord the king hath in the ſaid declaration above alledged; but the ſaid Charles Hayes does own that the ſaid laſt-mentioned fine in form aforeſaid levied and had, was as to the ſaid advowſon levied and had to the uſe following, to wit, as to the firſt and then next preſentation of the ſaid church, to the uſe and behalf of the ſaid John Robinſon the laſt-named cognizor and his aſſigns, and from and after the ſaid firſt next preſentation, the ſaid advowſon to be to the uſe of Henry Bayles, his heirs and aſſigns for ever, to wit, at Ryder, alias, &c. aforeſaid: And the ſaid Charles Hayes further ſaith, that after levying the ſaid laſt-mentioned fine in form aforeſaid, the ſaid John Robinſon, the laſt-named cognizor, preſented to the ſaid church being vacant the ſaid Robert Morrett, his clerk, who after that preſentation was admitted, inſtituted, and inducted into the ſame in time of peace, in the time of his ſaid late majeſty king Charles the Second, which ſaid preſentation was the firſt and next preſentation after levying of the ſaid laſt-mentioned fine, by virtue of which ſaid laſt-mentioned fine, and by reaſon of the premiſes, and alſo by force of the ſtatute for transferring of uſes into poſſeſſion, the ſaid Henry Bayles became and was ſeiſed of the advowſon aforeſaid as in one of groſs by itſelf as of fee and right; and the ſaid Henry being ſo ſeiſed of the ſaid advowſon in form aforeſaid, and the church aforeſaid being ſo full and provided with the ſaid Robert Morrett, incumbent thereof as aforeſaid, the ſaid Henry afterwards, to wit, on the eleventh of July, in the thirty-fifth year of the reign of the ſaid late king Charles the Second, at Ryder, alias, &c. aforeſaid, by a certain indenture then and there made between him the ſaid Henry Bayles, by the name of Henry Bayles of Solby, in the county of York, gentleman, of the one part, and the ſaid John Cole in the ſaid declaration mentioned, by the name of John Cole, citizen and plumber, of London, of the other part, the one part of which ſaid indenture ſealed with the ſeal of the ſaid Henry Bayles, the ſaid Charles Hayes bringeth here into court, the date whereof is the ſame day and year laſt aforeſaid, granted to the ſaid John Cole the advowſon aforeſaid, to have and to hold to the ſaid John Cole, his executors, adminiſtrators, and aſſigns, from the day next before the date of the ſame indenture unto the full end and term of one thouſand years from thence enſuing, and fully to be complete and ended as by the ſaid indenture (amongſt other things) more fully appears; by virtue of ſuch ſaid grant, the ſaid John Cole was poſſeſſed of the ſaid advowſon for the ſaid term of one thouſand years ſo as aforeſaid

granted to him; and the ſaid John Cole being ſo poſſeſſed thereof, the ſaid church became vacant by the death of the ſaid Robert the then laſt incumbent thereof, wherefore the ſaid John Cole preſented to the ſaid church ſo being vacant as aforeſaid William Elſeley, his clerk, who upon the preſentation of the ſaid John Cole was admitted, inſtituted, and inducted in and to the ſame in the time of peace, in the time of her late majeſty Anne, late queen of England, &c.; and the ſaid John Cole being ſo poſſeſſed of the advowſon aforeſaid, and the ſaid church being full of the ſaid William Elſeley, the incumbent thereof as aforeſaid, the ſaid John Cole died ſo poſſeſſed thereof, to wit, at Ryther, &c. aforeſaid, after whoſe death the ſaid church became vacant by the death of the ſaid William Elſeley the laſt incumbent thereof, and is ſtill vacant as in the declaration is above alledged: And the ſaid Charles Hayes further ſays, that after the death of William Elſeley, and during the vacancy of the ſaid church, by the death of the ſaid William Elſeley the laſt incumbent thereof, to wit, on the tenth of October 1743, adminiſtration, with the will annexed of the goods and chattels which were of the ſaid John Cole deceaſed, at the time of his death was in due form committed to the ſaid Charles Hayes by William Ward, doctor of laws, commiſſary and keeper general of the exchequer and prerogative court of the ſaid Thomas, archbiſhop of York, primate of England, and metropolitan, to wit, at Ryder, alias, &c. aforeſaid, and by reaſon thereof it belongeth to the ſaid Charles Hayes to preſent a fit perſon to the ſaid church ſo being vacant as aforeſaid, without this, that the laſt-mentioned fine in form aforeſaid levied and had was as to the ſaid manor, with the appurtenances, to which, &c. levied and had, to the uſe of the ſaid John Robinſon for his natural life without impeachment of waſte, and from and immediately after his death, then to the uſe of the ſaid Margaret for her natural life, and immediately after the death of the ſaid Margaret, then to the uſe of the ſaid John Robinſon the younger, eldeſt ſon of the ſaid John Robinſon the laſt-named cognizor, or the body of the ſaid Margaret begotten, and the heirs male of the body of the ſaid John Robinſon, the ſon of the ſaid John Robinſon the laſt-named cognizor lawfully to be begotten, and for default of ſuch iſſue, to the uſe of Charles Robinſon, ſecond ſon of the ſaid John Robinſon the laſt-named cognizor, upon the body of the ſaid Margaret lawfully begotten, and the heirs male of the body of the ſame Charles lawfully to be begotten, and for default of ſuch iſſue, to the uſe of every other ſon of the ſaid John Robinſon the ſaid laſt-named cognizor, upon the body of the ſaid Margaret begotten or to be begotten ſucceſſively according to their ſeveral ſeniorities, and of the heirs male of the body of every ſuch other ſon ſucceſſively, and for default of ſuch iſſue, to the uſe of the ſaid Francis Robinſon and Richard Robinſon, and the ſurvivor of them, and the executors, adminiſtrators, and aſſigns of ſuch ſurvivor for the term of ſixty years, to commence immediately after the deceaſe of the ſaid John Robinſon the ſaid laſt-named cognizor and Margaret, without

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out iſſue male of the ſame John upon the body of the ſaid Margaret begotten, and after the determination of the ſaid term, then to the uſe of the right heirs of the ſaid John Robinſon the ſaid laſt-named cognizor, in manner and form as the ſaid attorney general for the ſaid lord the king in the declaration aforeſaid hath above alledged, and this he is ready to verify; wherefore he prays judgment if the ſaid lord the king ought to have the ſaid action againſt him, &c.; and the ſaid Charles brings here into court the letters of adminiſtration aforeſaid granted to the ſaid Charles in form aforeſaid, the date whereof is the day and year in that behalf aforeſaid, &c.; and the ſaid George Barber ſays, that the ſaid lord the king ought not to have his ſaid action againſt him, becauſe he ſaith, that true it is, that the ſaid John Robinſon firſt named in the ſaid declaration was ſeiſed of the ſaid manor, with the appurtenances, to which, &c. in his demeſne as of fee, and that ſuch fine was levied and had, and that the ſame was had and levied to the uſes in the ſaid declaration for that purpoſe mentioned, and that the ſaid John Robinſon the cognizor died, and that ſuch other fine was levied by the ſaid John Robinſon the ſon, and that the ſame was levied and had to the uſes in the ſaid declaration for that purpoſe alſo mentioned; and that the ſaid John Robinſon the ſon preſented to the ſaid church ſo vacant the ſaid Robert Morrett, his clerk, and that the ſaid Robert Morrett upon that preſentation was admitted, inſtituted, and inducted into the ſame in time of peace, in the time of his ſaid late majeſty king Charles the Second, and that the ſaid John Robinſon the ſaid laſt-named cognizor, granted, bargained, and ſold to the ſajd ſir Michael Warton, his heirs and aſſigns, the ſaid advowſon for ever, in manner and form as the ſaid attorney general of our ſaid lord the king for our ſaid lord the king in that behalf in the ſaid declaration hath above alledged; but the ſaid George Barber further ſaith, that the ſaid ſir Michael Warton being ſo ſeiſed of the ſaid advowſon of the ſaid church in groſs by itſelf as of fee and right as aforeſaid, and the ſaid church being full and provided for as aforeſaid, the ſaid ſir Michael afterwards, to wit, on the firſt of January 1698, at Ryther, alias, &c. aforeſaid, made his laſt will and teſtament in writing, and thereby gave and deviſed the ſaid advowſon of the church aforeſaid to the ſaid George Barber and his heirs for ever, and afterwards, to wit, on the ſame day and year laſt mentioned there died ſo ſeiſed of ſuch his eſtate of and in the ſaid advowſon, after whoſe death the ſaid George Barber became and was ſeiſed of the ſaid advowſon of the church aforeſaid as of one in groſs by itſelf as of fee and right; and the ſaid George Barber being ſo ſeiſed thereof, the ſaid church became void by the death of the ſaid Robert Morrett, and by reaſon thereof it belonged to the ſaid George Barber to preſent a fit perſon to the ſaid church ſo vacant; but the ſaid John Cole uſurping upon the ſaid George Barber, at Ryther, alias, &c. aforeſaid, preſented to the ſaid church ſo vacant the ſaid William Elſeley, his clerk, who upon the preſentation of the ſaid John Cole was admitted, inſtituted,

Clerk's plea.

Sir M. W. deviſed the advowſon to defendant.

and inducted into the ſame in time of peace, in the time of her ſaid late majeſty queen Anne; and the ſaid George Barber being ſo ſeiſed of the advowſon aforeſaid, the ſaid church became vacant by the death of the ſaid William Elſeley the laſt incumbent thereof, and ſtill is vacant as in the ſaid declaration is above alledged, and by reaſon thereof it belongeth to the ſaid George Barber to preſent a fit perſon to the ſaid church being vacant as aforeſaid; without this, that the ſaid ſir Michael Warton granted the ſaid advowſon of the ſaid church to the ſaid Michael Warton, eſquire, in manner and form as the ſaid attorney general hath in declaring above alledged, and this the ſaid George is ready to verify; wherefore he prays judgment if the ſaid lord the king ought to have his aforeſaid action againſt him, &c.

Traverſe that ſir M. W. granted to M. W. eſquire.

Imparlances.

And the ſaid ſir Dudley Ryder, knight, attorney general of our ſaid lord the king, who, &c. prays day to imparl to the ſaid ſeveral pleas of the ſaid Charles Hayes and George Barber, and it is granted to him, &c.; and thereupon day is given, as well to the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. as to the ſaid Charles Hayes and George Barber here until from the day of Eaſter in fifteen days, to wit, for the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. to imparl to the ſaid pleas, and then to reply to the ſaid pleas, &c. at which day come here as well the ſaid ſir Dudley Rider, knight, attorney general of our ſaid lord the king, who, &c. as the ſaid Thomas, archbiſhop of York, by his attorney, and the ſaid Charles Hayes and George Barber, by their attorney, and the ſaid Thomas, archbiſhop of York, by his attorney aforeſaid, prays leave thereupon to imparl here until on the morrow of the Holy Trinity, and he hath it, &c.; and the ſame day is given to the ſaid ſir Dudley Ryder, knight, attorney general of the lord the king, who, &c. prays further day to imparl to the ſaid ſeveral pleas of the ſaid Charles Hayes and the ſaid George Barber, and it is granted to him, &c.; and thereupon day is given as well to the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. as to the ſaid Charles Hayes and George Barber, here until the morrow of the Holy Trinity, to wit, for the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. to imparl to the ſaid pleas, and then to reply to the ſaid pleas, &c. at which day come here as well the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. as the ſaid Thomas, archbiſhop of York, by his ſaid attorney, and the ſaid C. Hayes and George Barber, by their ſaid attorney, pray further leave thereupon to imparl here until from the day of Saint Michael in three weeks, and he hath it, &c.; and the ſame day is given to the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c.; and the ſaid ſir Dudley, &c. prays further day to imparl to the ſaid ſeveral pleas of the ſaid Charles Hayes and George Barber, and it is granted to him, &c.; and

thereupon

thereupon a day is given as well to the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king. who, &c. as to the ſaid Charles Hayes and George Barber, until from the day of Saint Michael in three weeks here, to wit. to the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. to imparl to the ſaid pleas, and then to reply to the ſaid pleas, at which day come here as well the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. as the ſaid Thomas, archbiſhop of York, by his ſaid attorney, and the ſaid Charles Hayes and George Barber, by their ſaid attorney; and the ſaid Thomas, Archbiſhop of York, by A. B. his attorney, defends the wrong and injury when, &c. and ſays, that the aforeſaid church is within his dioceſe of York, and that he hath not any thing, nor claims to have any thing in the ſaid church, nor in the advowſon of the ſaid church, ſave the admiſſion, inſtitution, and diſplacing of the parſon of the ſaid church, and other the matters which belong to, and are incumbent on the ordinary, as ordinary of the ſame place, and this he is ready to verify; wherefore he prays judgment if the ſaid lord the king, without aſſigning ſome ſpecial diſturbance in the perſon of him the ſaid archbiſhop in this behalf, ought to maintain the ſaid action againſt him.

Biſhop's plea, where the ordinary is made party to the writ he cannot preſent by lapſe, nor can the metropolitan, if other ſix months paſs, for he has no title but where the ordinary might have preſented, and loſes his opportunity.

And the ſaid lord the king, in that the ſaid archbiſhop hath not any thing, nor claims to have any thing in the ſaid church, nor in the advowſon of the ſame church, but the admiſſion, inſtitution, and diſplacing of parſons of the ſame church, and other the matters which belong to, and are incumbent on the ordinary, as ordinary of that place, prays judgment againſt him, the ſaid archbiſhop, and a writ to the ſaid archbiſhop, &c.; therefore it is conſidered that the ſaid lord the king recover againſt the ſaid archbiſhop his preſentation to the ſaid church, and that the ſaid lord the king have a writ to the ſaid archbiſhop, that notwithſtanding the diſclaimer of him the ſaid archbiſhop, the ſaid archbiſhop admit a fit perſon to the ſaid church upon the preſentation of the ſaid lord the king, but let execution thereof ceaſe until the plea between the ſaid lord the king and Charles Hayes and George Barber is determined, &c. (*and ſays nothing of mercy of the ſaid archbiſhop, i. e.* that the ſaid archbiſhop be not amerced becauſe he excuſes himſelf of the ſpecial impediment.)

Replication to a biſhop's plea.

Writ to the biſhop.

Ceſſet executio.

And the ſaid ſir Dudley Ryder, knight, attorney general of the lord the king, who for the ſame lord the king in this behalf further ſays, that the ſaid lord the king, by any thing by the ſaid Charles Hayes above in pleading alledged, ought not to be precluded from having his ſaid action againſt the ſaid Charles Hayes, for that the ſaid laſt mentioned in form aforeſaid levied and had, was as to the ſaid manor, with the appurtenances, to which, &c. levied and had, to ſuch uſes as he the ſaid attorney general of the ſaid lord the king hath in his declaring above alledged; and

Replication to patron's plea.

this the ſaid attorney general of the ſaid lord the king, who for the ſaid lord the king in this behalf ſues, prays may be enquired of by the country.

And the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. ſays, that the ſaid lord the king ought not to be precluded from having his ſaid action againſt him the ſaid George Barber, becauſe he ſaith, that the ſaid ſir Michael Warton granted the ſaid advowſon of the ſaid church to the ſaid Michael Warton, eſquire, in manner and form as the ſaid attorney general of the ſaid lord the king hath in declaring above alledged; and this the ſaid attorney general of the ſaid lord the king, who for the ſaid lord the king in this behalf ſues, prays may be enquired of by the country.

Further Imparlances.

And the ſaid Charles Hayes and George Barber ſeverally pray further leave thereupon to imparl to the ſaid ſeveral replications of the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. and it is granted to them, &c.; and thereupon a day is given as well to the ſaid Charles Hayes and George Barber, as to the ſaid ſir Dudley Ryder, knight, and the attorney general of the ſaid lord, who, &c. here until in eight days of Saint Hilary, to wit, for them the ſaid Charles Hayes and George Barber ſeverally to imparl to the ſeveral replications, and then to rejoin, &c.; the ſame day is given to the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. at which day come here as well the ſaid Charles Hayes and George Barber, as the ſaid ſir Dudley Ryder, attorney general of the ſaid lord the king, who, &c.; and the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. prays that the ſaid Charles Hayes and George Barber ſeverally do anſwer to the ſaid ſeveral replications of the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c.; and the ſaid Charles Hayes likewiſe puts himſelf upon the country, and the ſaid George Barber likewiſe puts himſelf upon the country; therefore to try the ſeveral iſſues above joined, the ſheriff is commanded that he cauſe to come here *in eight days* of the Purification of the Bleſſed Virgin Mary, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. at which day the jury between the parties aforeſaid of the plea aforeſaid was reſpited thereupon, between them here until at this day, to wit, *until from the day of Eaſter in fifteen days then next following*, unleſs our lord the king's juſtices aſſigned to hold the aſſizes in the county aforeſaid, by form of the ſtatute in that caſe made and provided, ſhould come before on Monday the ſeventh day of March laſt paſt, at the Caſtle of York, in the ſaid county; and now at this day come here as well the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who for our ſaid lord the king in this behalf ſues, as the ſaid Charles Hayes and George Barber, by their attorney aforeſaid; and

Iſſue joined.

Venire.

Reſpite for default of jurors.

and the aforeſaid juſtices of aſſize, before whom the jury aforeſaid came and ſent here record before them had in theſe words, to wit, afterwards, at the day and place within contained, before *Poſtea.* ſir Thomas Abney, knight, one of his majeſty's juſtices of the court of common pleas, and John Agar, ſerjeant at law, two of his majeſtys juſtices aſſigned to take the aſſizes in the within written county of York, according to the ſtatute, &c.; the preſence of ſir William Lee, knight, lord chief juſtice of his majeſty's court of king's bench, alſo another of his majeſty's juſtices aſſigned to take the ſaid aſſizes not being expected, by virtue of his majeſty's writ of *ſi non omnes*, &c. to the ſaid juſtices and *Si non omne.* others directed, come as well the within-named ſir Dudley Ryder, knight, attorney general of our ſovereign lord the king, who for our ſaid lord the king in this behalf proſecutes, as the within-named Charles Hayes and George Barber, clerk, by their attorneys within mentioned, and the names of the jury, of which there is mention within made, being called, certain of them, to wit, George Nelthorpe, Charles Tancred and others, come and are ſworn upon that jury, and becauſe the reſt of the jurors of the ſaid jury did not appear, therefore ſome others of the jury-men ſtanding about the court choſe for that purpoſe by the ſheriff of *Tales de circumſtantibus.* the ſaid county, at the requeſt of the ſaid attorney general of our ſaid lord the king, and by the command of the ſaid juſtices are newly appointed, whoſe names are added to the within written pannel, and according to the form of the ſtatute in ſuch caſe made and provided, which ſaid jurors ſo newly appointed, to wit, S. Smith, W. Seaton, and W. Kelſey being called likewiſe come, who together with the jurors firſt impannelled and ſworn, being choſen, tried, and ſworn to ſpeak the truth of the matters within contained, as to the iſſue between our ſovereign lord the king, and the ſaid Charles Hayes within joined, upon their oath ſay, that the fine laſt within mentioned in form within ſet forth levied and had, was as to the within-mentioned manor of Ryder, alias Ryther, with the appurtenances, to which, &c. levied and had, to ſuch uſes as he the ſaid attorney general of the ſaid lord the king hath within in declaring alledged, as the ſaid attorney general of the ſaid lord the king, for our ſaid lord the king, in his within written replication to the plea of the ſaid Charles hath within alledged; and as to the iſſue between our ſaid lord the king and the ſaid George Barber within likewiſe joined, the jurors aforeſaid upon their oath further ſay, that the within named ſir Michael Warton granted the within mentioned advowſon of the within-mentioned church of Ryther, alias, &c. to the within-named Michael Warton, eſq. in manner and form as the ſaid attorney general of our ſaid lord the king, for our ſaid lord the king, hath in declaring within alledged, as the ſaid attorney general of the ſaid lord the king in his within written replication to the plea of the ſaid George Barber hath within likewiſe alledged; and becauſe the juſtices here are willing to adviſe themſelves of and upon the

Verdict for attorney general againſt Charles Hayes, eſquire.

Verdict for attorney general againſt G. Barber, clerk.

Continuance by *tur. adv. vult.*

the premiſes before they give their judgment thereon, a day is given as well to the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. as to the ſaid Charles Hayes and George Barber, here until on the morrow of the Holy Trinity of hearing their judgment thereon, for that the ſame juſtices here are thereof not yet adviſed, &c. at which day come here as well the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid lord the king, who, &c. as the ſaid Charles Hayes and George Barber, by their attorney aforeſaid, (divers continuances); and thereupon the ſaid ſir Dudley Ryder, knight, attorney general of the ſaid, &c. for the ſaid, &c. prays judgment to be given upon the ſaid verdict for our ſaid lord the king againſt the ſaid Charles Hayes and George Barber; but becauſe it appears to the juſtices here that the declaration of our ſaid lord the king is not ſufficient to have and maintain his ſaid action, inaſmuch as it appears by the ſaid declaration, that the title of the ſaid lord the king to preſent to the ſaid church doth not accrue until and after the end and expiration of a term of ſixty years, which appears by the ſaid declaration to be ſtill ſubſiſting and not expired, and that therefore no judgment can be given for our ſaid lord the king; it is therefore conſidered and adjudged that no judgment be entered on the ſaid verdict, and that the ſaid Charles Hayes and George Barber do go hence without day, ſaving the right of our ſaid lord the king, &c.

Final judgment for patrons, for inſufficiency of declaration.

Proclamation.

Afterwards, that is to ſay, on Friday next after to-morrow of the Holy Trinity in the ſaid term before our lord the king at Weſtminſter, come as well the aforeſaid ſir Dudley Ryder, knight, attorney general of our ſaid ſovereign lord the king, who for our ſaid ſovereign lord the king in this behalf proſecuted, as the aforeſaid Charles Hayes and George Barber, by Nicholas Coulthruſt, their attorney; and upon this proclamation is made here in court, if any one of our ſaid lord the king will inform the court of our ſaid lord the king here, or the ſerjeant at law of our ſaid lord the king, or of attorney general of our ſaid lord the king of and concerning the premiſes, he ſhould come forth and ſhould be heard, and none appeared to do this, neither did the attorney general of our ſaid lord the king, nor the ſerjeant at law of our ſaid lord the king, inform the court of and concerning the premiſes; therefore it is conſidered that the aforeſaid Charles Hayes and George Barber at preſent go thereof without day, ſaving the right of our ſaid lord the king, &c.

To preſent to the church of Ryder, alias Ryther.

HAYES *againſt* THE ARCHBISHOP OF YORK. } YORKSHIRE to wit. Elſewhere as it appears in the term of Saint Michael laſt paſt, upon the 543d Roll, it is there contained: Yorkſhire, to wit. Thomas, archbiſhop of York, was ſummoned to anſwer Charles Hayes, eſquire, adminiſtrator, with the will annexed of the

the goods and chattels which were of John Cole, late of the parish of Saint Giles's in the Fields, in the county of Middlesex, esquire, deceased, of a plea that he permit the said Charles to present a fit person to the church of Ryther, alias Ryder, which is vacant, and belongs to his gifts, &c.; and whereupon the said Charles, by A. B. his attorney, saith, that whereas Henry Bayles was seised of the advowson of the church aforesaid as of gross by itself as of fee and right, and the said Henry being so seised thereof, afterwards, to wit, on the eleventh of July, in the thirty-fifth year of the reign of his late majesty Charles the Second, late king of England, &c. the said church being then full of one Robert Morrett, clerk, the then incumbent thereof, at Ryther alias &c. aforesaid, by a certain indenture then and there made between the said Henry Bayles, by the name and description of Henry Bayles of Selby, in the county of York, gentleman, of the one part, and the said John Cole, citizen and plumber, of London, of the other part, (one part of which said indenture sealed with the seal of the said Henry Bayles, the said Charles Hayes brings here into court, the date whereof is the day and year aforesaid) granted to the said John Cole the advowson aforesaid, (amongst other things) to have and to hold to the said John Cole, his executors, administrators, and assigns, from the day next before the day of the date of the same indenture, until the full end and term of one thousand years, from thence next ensuing, and fully to be complete and ended, as by the same indenture, amongst other things, it more fully appears; by virtue of which said grant, the said John Cole was possessed of the said advowson aforesaid; and the said John Cole being so possessed thereof, the said church became vacant by the death of the said Robert Morrett, the then last incumbent thereof, wherefore the said John Cole presented to the said church being so vacant as aforesaid William Elseley, his clerk, who upon the presentation of the said John Cole was admitted, instituted, and inducted in and to the same in the time of peace, in the time of her late majesty Anne, late queen of England, &c. and the said John Cole being so possessed of the advowson aforesaid, the said church being full of the said William Elseley, the incumbent thereof as aforesaid, the said John Cole died possessed thereof, to wit, at Ryder alias, &c. aforesaid, after whose death the said church became vacant by the death of the said William Elseley, the last incumbent thereof, and is still vacant: And the said Charles further saith, that after the death of the said John Cole, and also after the death of the said William Elseley, and during the vacancy of the said church by the death of the said William Elseley the last incumbent thereof as aforesaid, to wit, on the eighteenth of October 1743, administration, with the will annexed of the goods and chattels which were of the said John Cole received, was in due form committed to the said Charles by William Ward, doctor of laws, commissary and keeper general of the exchequer and prerogative court of the said Thomas, archbishop of York, primate

The bishop admitted a clerk pending the former suit, vide 3. Black. 298.

That Henry Bayles was seised of the advowson as of gross as of fee, and being so seised on the eleventh of July thirty-fifth Car. Second, by indenture between himself of the one part, and J. Cole of the other, granted to the said J. Cole the said advowson, amongst other things, to have and to hold to the said J. Cole, his executors, &c. for one thousand years; by virtue whereof Cole was possessed of the said advowson, and the said church became void by the death of the incumbent, and that he presented W. Elseley, who was admitted, instituted, and inducted; that the said John Cole died so possessed thereof, after whose death the church became vacant by the death of Elseley, and that it was vacant. Administration committed.

nistration of the goods and chattels of Cole were granted to plaintiff. Administration

primate of England, and metropolitan, viz. at Ryther alias, &c. aforeſaid; and by reaſon thereof at preſent it belongeth to the ſaid Charles to preſent to the ſaid church being ſo vacant as aforeſaid, and the ſaid archbiſhop unjuſtly hinders him thereof; whereupon the ſaid Charles ſaith that he is injured, and hath damage to the value of two hundred pounds, and thereupon he brings ſuit, &c.; and he bringeth here into court the letters of adminiſtration to the ſaid Charles in form aforeſaid, the date whereof is the day and year aforeſaid in that behalf, &c.

Profert of letters of adminiſtration.

Plea by biſhop. And the ſaid archbiſhop comes by A. B. his attorney, and defends the wrong and injury whereof, &c. and craves leave to imparl thereupon here until in eight days after Saint Hilary, and he hath it, &c.; the ſame day is given to the ſaid Charles here, &c. at which day come as well the ſaid Charles, by his attorney aforeſaid, as the ſaid archbiſhop, by the ſaid A. B. his attorney; and the aforeſaid Charles prays that the aforeſaid archbiſhop may anſwer to his declaration aforeſaid, whereupon the ſaid archbiſhop as before defends the wrong and injury when, &c. and ſaith, that he claims not any thing in the ſaid church, nor in the advowſon of the church aforeſaid, except the admiſſion, inſtitution, and induction of parſons of that church, as ordinary of the ſame place, and other matters which belong to the ſaid ordinary, and this he is ready to verify; whereupon he prays judgment if the ſaid Charles Hayes, unleſs a ſpecial diſturbance in this behalf be aſſigned againſt him the ſaid archbiſhop, ought to have his ſaid action againſt him, &c.

The archbiſhop claims nothing but as ordinary.

J. AGAR.

Imparlances. And the ſaid Charles prays day to imparl to the ſaid plea of the ſaid archbiſhop, and it is granted to him, &c. and thereupon day is given as well to the ſaid Charles Hayes, as to the ſaid archbiſhop, here until from the day of Eaſter in fifteen days, *i. e.* for the ſaid Charles Hayes to imparl to the ſaid plea, and then to reply thereto, &c. At which day here come as well the ſaid Charles Hayes, by his attorney aforeſaid, as the ſaid archbiſhop, by his ſaid attorney; and the ſaid Charles Hayes prays further day to imparl to the ſaid plea of the ſaid archbiſhop, and it is granted to him, &c. and thereupon a day is given as well to the ſaid Charles Hayes as to the ſaid archbiſhop here until the morrow of the Holy Trinity, *i. e.* for the ſaid Charles Hayes to imparl to the ſaid plea, and then to reply thereto, &c. at which day come here as well the ſaid Charles Hayes, by his attorney aforeſaid, as the ſaid archbiſhop, by his ſaid attorney; and the ſaid Charles Hayes inaſmuch as the ſaid archbiſhop hath not nor doth claim to have any thing in the ſaid church, or in the advowſon thereof, but the admiſſion, inſtitution, and induction of parſons to the ſame church, as ordinary of the ſame place, and other matters which belong to the ordinary, prays judgment and a writ to the ſaid archbiſhop;

therefore it is conſidered, that the ſaid Charles do recover his preſentation to the ſaid church againſt the ſaid archbiſhop, and that he have a writ to the ſaid archbiſhop, that he, notwithſtanding his *diſclaimer*, admit a fit perſon to the ſaid church upon the preſentation of the ſaid Charles, and no amercement is awarded againſt the ſaid archbiſhop, becauſe he excuſes himſelf from any ſpecial diſturbance, &c.

Plaintiff prays a writ to the archbiſhop and it is granted.

Afterwards, *i. e.* on the morrow of the Holy Trinity, in the term of the Holy Trinity, in the twenty-fourth year of the reign of our lord the preſent king, cometh the ſaid Charles Hayes, by the aforeſaid A. B. his attorney, into the court of our ſaid lord the king here, and giveth the court here to underſtand, that execution of the ſaid judgment ſtill remains to be made, and that the ſaid Thomas, archbiſhop of York, ſince the rendering of the ſaid judgment, hath been tranſlated from that his archiepiſcopal ſee to the archiepiſcopal ſee of Canterbury, whereby the archiepiſcopal ſee of York became vacant, and that ſince the tranſlation of the ſaid Thomas, archbiſhop of York, Matthew Hatton, late biſhop of Bangor, hath been in due manner tranſlated from the ſaid ſee of Bangor to the ſaid archiepiſcopal ſee of York, and hath been in due manner elected and created archbiſhop of York, and yet is archbiſhop of York, and therefore the ſaid Charles Hayes prays a writ of the ſaid lord the king to be directed to the ſaid Matthew, archbiſhop of York, that notwithſtanding the diſclaimer of the ſaid late archbiſhop his predeceſſor, he admits a fit perſon to the ſaid church upon the preſentation of the ſaid Charles, and it is granted to him, &c.

Suggeſtion of the archbiſhop's, tranſlation to Canterbury, and the biſhop of Bangor's tranſlation to York, and prays a writ to him, and it is granted.

JOHN ANSTIS, ESQUIRE, *againſt* THE BISHOP OF NORWICH, ELIZABETH MONEY, WIDOW, AND HUMPHREY CHRISTIAN.

ELSEWHERE as it appears of the term of Eaſter laſt paſt, upon the 422d and 423d Rolls, it is thus contained:

To preſent to the church of Burnham Deepdale.

Norfolk, to wit. Thomas, biſhop of Norwich, Elizabeth Money, widow, and Humphrey Chriſtian, clerk, were ſummoned to anſwer John Anſtis, eſquire, executor of the laſt will and teſtament of John Anſtis, eſquire, his late father, deceaſed, of a plea that they permit him to preſent a fit perſon to the church of Burnham Deepdale, which is vacant and belongs to his gift, and whereupon the ſaid John Anſtis, the now plaintiff, by Matthew Coulthruſt, his attorney, ſays, that one John Harris, eſquire, was ſeiſed of and in the manor of Poulſtead Hall alias Weſtgate, with the appurtenances, in the ſaid county of Norfolk, to which manor the advowſon of the church of Burnham Deepdale did belong, and yet doth belong in his demeſne as of fee; and being ſo ſeiſed which the advowſon of the ſaid church was appendant in his demeſne thereof,

That John Harris, eſquire, was ſeiſed of the manor of Poulſtead Hall alias Weſtgate, to as of fee.

that John Harris, eſquire, preſented Thomas Green, his clerk, to the ſaid church being void, who was thereon inſtituted and inducted;

thereof, he the ſaid John Harris preſented Thomas Green, his clerk, to the ſaid church of Burnham Deepdale, being vacant, who upon the preſentation of the ſaid John Harris was admitted, inſtituted, and inducted into the ſame in the time of peace, in the time of the lord James the Second, late king of England: And the ſaid John Anſtis, the now plaintiff, further ſays, that the ſaid John Harris being ſo ſeiſed of the ſaid manor, to which, &c. with the appurtenances, in his demeſne as of fee, he the ſaid John Harris afterwards, to wit, on the firſt of May 1691, at Burnham Deepdale aforeſaid, died ſo ſeiſed of ſuch eſtate therein, after whoſe deceaſe the ſaid manor, to which, &c. with the appurtenances, deſcended and came to John Harris, gentleman, as ſon and heir of the ſaid John Harris, eſquire, whereby the ſaid John Harris the ſon became and was ſeiſed of the ſaid manor, to which, &c. with the appurtenances, in his demeſne as of fee; and being ſo ſeiſed thereof, and the ſaid church being full of the ſaid Thomas Green, the then incumbent thereof, he the ſaid John Harris the ſon, afterwards, to wit, on the twenty-ſecond of June 1700, at Burnham Deepdale aforeſaid, by a certain indenture then and there made between the ſaid John Harris the ſon of the one part, and one Thomas Harris, brother to the ſaid John Harris the ſon of the other part, the one part of which ſaid indenture, ſealed with the ſeal of the ſaid John Harris the ſon, the ſaid John Anſtis, the now plaintiff, brings here into court, the date whereof is of the ſame day and year laſt-mentioned, for the conſideration therein-mentioned did demiſe unto the ſaid Thomas Harris the ſaid manor, to which, &c. with the appurtenances, (amongſt other things) to have and to hold the ſame to the ſaid Thomas Harris, his executors, adminiſtrators, and aſſigns, from the day next before the day of the date of the ſaid indenture, for and during, and to the full end and term of five hundred years from thence next enſuing, and fully to be complete and ended as by the ſaid indenture (amongſt other things) more fully appears; by virtue of which ſaid demiſe the ſaid Thomas Harris entered into the ſaid manor, to which, &c. with the appurtenances, and became and was poſſeſſed thereof, and being ſo poſſeſſed thereof, and the ſaid church being full of the ſaid Thomas Green as aforeſaid, he the ſaid Thomas Harris afterwards, to wit, on the twenty-fifth of February 1701, at Burnham Deepdale aforeſaid, by a certain other indenture then and there made between the ſaid John Harris the ſon, and the ſaid Thomas Harris of the one part, and one John Roydhouſe of the other part, (one part of which laſt-mentioned indenture, ſealed with ſeals of the ſaid John Harris the ſon, and the ſaid Thomas Harris, the ſaid John Anſtis, the now plaintiff, brings here into court, the date whereof is the ſame day and year laſt-mentioned) for the conſideration therein mentioned, did aſſign unto the ſaid John Roydhouſe all his eſtate, right, title, intereſt, and term of years then to come and unexpired, which he

that John Harris died, and J. Harris the ſon entered and was ſeiſed;

and being ſo ſeiſed on twenty-ſecond June, 1700, by indenture between himſelf of the one part, and Thomas Harris his brother of the other, demiſed to the ſaid Thomas the manor to which, &c. amongſt other things, to have and to hold to the ſaid Thomas Harris the brother, his executors, &c. for five hundred years;

by virtue whereof Thomas was poſſeſſed of the ſaid manor to which, &c. and being ſo poſſeſſed on twenty-fifth of February 1701, by indenture between John Harris the ſon and himſelf of the one part, and John Roydhouſe of the other, aſſigned over the remainder of his term to the ſaid J. Roydhouſe.

then

then had of and in the ſaid manor, to which, &c. with the appurtenances, unto the ſaid John Roydhouſe, by virtue of which ſaid aſſignment the ſaid John Roydhouſe entered into the ſaid manor, to which, &c. with the appurtenances, and was poſſeſſed thereof, and being ſo poſſeſſed thereof, and the ſaid church being full as aforeſaid, he the ſaid John Roydhouſe afterwards, to wit, on the third of March 1708, at Burnham Deepdale aforeſaid, by a certain indenture tripartite then and there made between the ſaid Thomas Harris of the firſt part, the ſaid John Roydhouſe of the ſecond part, and one John Sylveſter, of Barthwaite, in the county of York, eſquire, of the third part, (the ſecond part of which laſt-mentioned indenture, ſealed with the ſeal of the ſaid John Roydhouſe, the ſaid John Anſtis, the now plaintiff, brings here into court, the date whereof is the ſame day and year laſt mentioned) for the conſideration therein mentioned, did aſſign all his eſtate, right, title, intereſt, and term of years then to come and unexpired, of and in the ſaid manor, to which, &c. with the appurtenances, to the ſaid John Sylveſter, by virtue of which laſt-mentioned aſſignment the ſaid John Sylveſter entered into the ſaid manor, to which, &c. with the appurtenances, and became and was poſſeſſed thereof, and being ſo poſſeſſed thereof, and the ſaid church being full as aforeſaid, he, the ſaid John Sylveſter, afterwards, to wit, on the third of September 1715, at Burnham, &c. aforeſaid, by a certain indenture then and there made between the ſaid John Sylveſter on the one part, and one William Cock, eſquire, on the other, (the one part of which laſt-mentioned indenture, ſealed with the ſeal of the ſaid John Sylveſter, the ſaid John Anſtis, the now plaintiff, brings here into court, the date whereof is the day and year laſt mentioned) for the conſideration therein mentioned, did aſſign all his eſtate, right, title, intereſt, and term of years then to come and unexpired, of and in the ſaid manor, to which, &c. with the appurtenances, to the ſaid William Cock, by virtue of which laſt-mentioned aſſignment, the ſaid William Cock entered into the ſaid manor, to which, &c. with the appurtenances, and became and was poſſeſſed thereof; and being ſo poſſeſſed thereof for the reſidue of the ſaid term, and the ſaid church being then full as aforeſaid, he the ſaid William Cock afterwards, to wit, on the eighteenth of January 1722, at Burnham Deepdale aforeſaid, made his laſt will and teſtament in writing, and thereby made and conſtituted one Simon Aris, eſquire, and Robert Temple, eſquire, executors of his ſaid will, and afterwards, to wit, on the ſame day and year laſt mentioned there died ſo poſſeſſed of the ſaid manor, to which, &c. with the appurtenances, for the reſidue of the ſaid term of years then to come and unexpired, after whoſe death the ſaid Simon Aris and Robert Temple took upon themſelves the burthen and execution of the ſaid will, and proved the ſame in due form of law, to wit, at Burnham, &c. aforeſaid, by reaſon of which premiſes, they the ſaid Simon Aris and Robert Temple entered into the ſaid manor,

By virtue of which aſſignment J. Roydhouſe was poſſeſſed of the ſaid manor to which, &c. and being ſo poſſeſſed on third March 1708, by indenture between Thomas Harris of the firſt part, John Roydhouſe of the ſecond, and John Sylveſter of the third part, aſſigned over the remainder of his term to the ſaid John Sylveſter, by virtue of which aſſignment the ſaid John Sylveſter was poſſeſſed of the ſaid manor to which, &c. and being ſo poſſeſſed on the third of September 1715. by indenture between J. Sylveſter of the one part, and Wm. Cock of the other. Aſſigned over the remainder of his term to ſaid Wm. Cock, by virtue of which aſſignment, W. Cock was poſſeſſed of the ſaid manor to which, &c. and being ſo poſſeſſed made his will and appointed Simon Aris and Robert Temple his executors. That the ſaid Wm. Cock died ſo poſſeſſed thereof after whoſe death the executors proved his will.

By reason whereof Simon Aris and Robt Temple, executors, were poſſeſſed of the ſaid manor to which, &c. and being ſo poſſeſſed on third June 1731, by indenture between S. Aris and R. Temple of the firſt part, one Elizabeth Hancock, wife of, &c. of the ſecond part, Thomas Harris of the third part, and J. Anſtis now deceaſed, father of the now plaintiff, of the fourth part, aſſigned over the remainder of their term to ſaid John Anſtis now deceaſed. By virtue of which aſſignment John Anſtis was poſſeſſed of the ſaid manor to which, &c. and being ſo poſſeſſed, made his will, and appointed the ſaid John Anſtis the now plaintiff his executor.

That the ſaid John Anſtis the father died ſo poſſeſſed thereof, after whoſe death the executors proved his will, by reaſon whereof the ſaid John Anſtis the executor, the nowplaintiff, was poſſeſſed of the ſaid manor to which, &c.

to which, &c. with the appurtenances, and became and were poſſeſſed thereof for the reſidue of the ſaid term of years then to come and unexpired, and the ſaid Simon Aris and Robert Temple afterwards, to wit, on the third of June 1731, being ſo poſſeſſed of the ſaid manor, to which, &c. with the appurtenances, for the reſidue of the ſaid term of years then to come and unexpired, at Burnham, &c. aforeſaid, by a certain indenture quadripartite then and there made between the ſaid Simon Aris and Robert Temple of the firſt part, one Elizabeth Hancock, the then wife of one Guſtavus Hancock, eſquire, of the ſecond part, the ſaid Thomas Harris of the third part, and John Anſtis, eſquire, now deceaſed, late father of the ſaid John Anſtis the now plaintiff of the fourth part, (the firſt part of which ſaid indenture, ſealed with the ſeal of the ſaid Simon Aris and Robert Temple, the ſaid John Anſtis the now plaintiff brings here into court, the date whereof is the day and year laſt mentioned), for the conſideration therein mentioned did aſſign all their eſtate, right, title, intereſt, and term of years which they then had to come and unexpired, of and in the aforeſaid manor, to which, &c. with the appurtenances, unto the ſaid John Anſtis in his life time, now deceaſed, late father of the ſaid John Anſtis the now plaintiff, by virtue of which laſt-mentioned aſſignment the ſaid John Anſtis, eſquire, late father of the ſaid John Anſtis the now plaintiff, entered into the ſaid manor, to which, &c. with the appurtenances, and became and was poſſeſſed thereof, and being ſo poſſeſſed thereof, and the ſaid church being full as aforeſaid, he the ſaid John Anſtis, eſquire, the now plaintiff's late father, afterwards, to wit, on the twenty-firſt of November 1734, at Burnham, &c. aforeſaid, made his laſt will and teſtament in writing, and thereby made and conſtituted the ſaid John Anſtis the now plaintiff executor of his ſaid will; and afterwards, to wit, on the ſame day and year aforeſaid, there died ſo poſſeſſed of the ſaid manor, to which, &c. with the appurtenances, for the reſidue of the ſaid term of years then to come and unexpired, after whoſe death the ſaid John Anſtis the now plaintiff took upon himſelf the burthen and execution of the ſaid will, and proved the ſame in due form of law, to wit, at Burnham, &c. aforeſaid, by reaſon of which premiſes the ſaid John Anſtis the now plaintiff entered into the ſaid manor, to which, &c. with the appurtenances, and became and was poſſeſſed thereof for the reſidue of the ſaid term of years then to come and unexpired, and yet is poſſeſſed thereof; and being ſo poſſeſſed thereof, the ſaid church of Burnham, &c. became vacant by the death of the ſaid Thomas Green the laſt incumbent thereof, and yet is vacant, and by reaſon thereof it belongeth to the ſaid John Anſtis the now plaintiff as executor aforeſaid to preſent a fit perſon to the ſaid church ſo being vacant, and the ſaid Thomas, biſhop of Norwich, Elizabeth Money, and Humphrey Chriſtian unjuſtly hinder him; wherefore the ſaid John Anſtis the now plaintiff

for the reſidue of the ſaid term of five hundred years, and the ſaid church became void by the death of the incumbent, and that therefore it belonged to him to preſent to it.

tiff ſays that he is injured, and hath damage to the value of five hundred pounds, and therefore he brings ſuit, &c.; and the ſaid John Anſtis the now plaintiff brings here into court, as well the letters teſtamentary of the ſaid William Cock, which ſufficiently teſtify to the court here that the ſaid Simon Aris and Robert Temple are executors of the laſt will and teſtament of the ſaid William Cock, and have adminiſtration thereof, as alſo the letters teſtamentary of the ſaid John Anſtis, eſquire, the now plaintiff's late father, by which it appears to the court here that the ſaid John Anſtis the now plaintiff is executor of the laſt will and teſtament of the ſaid John Anſtis, eſquire, his late father, deceaſed, and thereof hath adminiſtration, &c.

The plaintiff *profert in curiam* both the letters teſtamentary of Wm. Cock, and his late father John Anſtis.

And the ſaid biſhop of Norwich, by A. B. his attorney, and the ſaid Elizabeth Money, and Humphrey Chriſtian, by C. B. their attorney, come and defend the wrong and injury when, &c. and the ſaid biſhop ſaith, that the aforeſaid church is within his dioceſe of Norwich, and that he hath not any thing, nor claims to have any thing in the ſaid church, nor in the advowſon of the ſaid church, except the admiſſion and inſtitution of parſons into the ſaid church and amoval of them therefrom, and all ſuch other things as belong to the ordinary as ordinary of that place, and this he is ready to verify; wherefore he prays judgment if the ſaid John Anſtis the now plaintiff without aſſigning ſome ſpecial diſturbance in the perſon of him the ſaid biſhop, ought to maintain his action aforeſaid againſt him, &c.

Biſhop's plea.

The biſhop claims nothing but as ordinary.

And the ſaid Elizabeth Money ſaith, that the ſaid John Anſtis the now plaintiff ought not to have his action aforeſaid againſt her, becauſe proteſting that the ſaid John Harris was not ſeiſed of and in the ſaid manor of Poulſtead Hall, alias Weſtgate, with the ſaid advowſon of the church of Burnham Deepdale thereto appendant in his demeſne as of fee as is above ſuppoſed; for plea ſhe the ſaid Elizabeth ſaith, that Thomas Stoughton, clerk, was ſeiſed of and in the manor of Burnham Deepdale, with the appurtenances, in the ſaid county of Norfolk, to which manor the advowſon of the ſaid church of Burnham, &c. did belong in his demeſne as of fee, and being ſo ſeiſed thereof, and the ſaid church being full and provided with Henry Spurling, clerk, incumbent thereof, he the ſaid Thomas Stoughton on the tenth of January 1676, at Burnham, &c. aforeſaid, did grant unto the ſaid John Harris and his aſſigns the then next advowſon, donation, nomination, and preſentation of the ſaid church, by virtue of which grant the ſaid John Harris was poſſeſſed of the ſaid advowſon of the ſaid church for the ſaid next preſentation to the ſame which ſhould afterwards happen to become vacant; and the ſaid John Harris being ſo poſſeſſed of the ſaid advowſon of the ſaid church for the ſaid next preſentation thereto, (the reverſion of the ſaid advowſon of the ſaid church belonging to the ſaid Thomas Stoughton and his heirs)

Patron's plea.

That T. S. granted the next preſentation to J. H.

The ſaid church became vacant by reſignation.

the ſaid church became vacant by the reſignation of the ſaid Henry Spurling, which ſaid advowſon of the ſaid church was the next avoidance thereof after the making of the ſaid grant by the ſaid Thomas Stoughton unto the ſaid John Harris and his aſſigns as aforeſaid; whereupon the ſaid John Harris preſented to the ſaid church being ſo vacant the ſaid George Green, his clerk, who upon the preſentation of the ſaid John Harris was admitted, inſtituted, and inducted into the ſame in the time of peace, in the time of the ſaid lord James the Second, late king of England; and the ſaid Thomas Stoughton being ſo ſeiſed of the ſaid manor of Burnham Deepdale, to which, &c. and the church aforeſaid ſo being full and provided with the ſaid Thomas Green, he the ſaid Thomas Stoughton afterwards, to wit, on the firſt of March 1676, at Burnham, &c. aforeſaid, made his laſt will and teſtament in writing, and thereby gave and deviſed the ſaid manor of Burnham, &c. with the appurtenances, to which, &c. unto his ſon Henry Stoughton and his heirs; and afterwards, to wit, at Burnham, &c. aforeſaid, died ſo ſeiſed of ſuch his eſtate therein, after whoſe death the ſaid Henry Stoughton entered into the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. and was ſeiſed thereof in his demeſne as of fee, and the ſaid Henry Stoughton being ſo ſeiſed thereof in his demeſne as of fee, and the ſaid Henry Stoughton being ſo ſeiſed thereof, afterwards, to wit, on the fourth day of October 1689, at Burnham, &c. aforeſaid, made his laſt will and teſtament in writing, and thereby gave and deviſed the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. to his wife, Anne Stoughton, for and during the term of her natural life, and from and after the deceaſe of the ſaid Anne, unto his ſon Thomas Stoughton and his heirs for ever; and afterwards, to wit, at Burnham Deepdale aforeſaid, died ſeiſed of ſuch his eſtate therein, after whoſe death the ſaid Anne entered into the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. and was ſeiſed thereof in her demeſne as of freehold, and being ſo ſeiſed thereof, (and the reverſion thereof belonging to the ſaid Thomas Stoughton the ſon, and his heirs as aforeſaid) he the ſaid Thomas Stoughton the ſon afterwards, viz. on the thirteenth of October 1703, at Burnham Deepdale aforeſaid, died ſeiſed of ſuch his eſtate therein without any iſſue of his body iſſuing, upon whoſe death the ſaid reverſion of the ſaid manor of Burnham, &c. with the appurtenances, to which, &c. deſcended unto his brother Henry Stoughton and his heirs, as brother and heir of the ſaid Thomas laſt above mentioned, by virtue whereof the ſaid laſt Henry was ſeiſed of the ſaid reverſion in his demeſne as of fee, and being ſo ſeiſed thereof, the ſaid Anne afterwards, to wit, at Burnham, &c. aforeſaid died, after whoſe death he the ſaid Henry Stoughton the brother entered into the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. and was ſeiſed thereof in his demeſne as of fee, and being ſo ſeiſed of the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. as aforeſaid, afterwards, to wit,

J. H. preſented his clerk, who was admitted, &c.

Said Thomas made his will;

and deviſed to his wife for life, remainder to his ſon T. S. in fee, and died.

Said T. S. the ſon died.

The reverſion of ſaid manor to which, &c. deſcended to H. S. as brother and heir.

on

on the eighteenth of April 1742, at Burnham Deepdale aforeſaid, by a certain indenture then and there made between the ſaid Henry Stoughton the brother of the one part, and one Benjamin Money of the other part, he the ſaid Henry Stoughton the brother, for and in conſideration of a certain ſum of money in hand paid as therein mentioned, did bargain and ſell unto the ſaid Benjamin Money the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. to have and to hold the ſame unto the ſaid Benjamin Money and his aſſigns, from the day next before the day of the date thereof for and during the term of one whole year thence next enſuing, by virtue whereof, and alſo by force of the ſtatute for transferring of uſes into poſſeſſion, he the ſaid Benjamin Money was poſſeſſed of the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. (the reverſion thereof belonging to the ſaid Henry Stoughton the brother and his heirs) and being ſo poſſeſſed thereof, and the ſaid Henry Stoughton the brother being ſeiſed of the reverſion thereof in his demeſne as of fee as aforeſaid afterwards, to wit, on the nineteenth of April in the ſaid year 1743, by a certain other indenture made at Burnham Deepdale aforeſaid, between the ſaid Henry Stoughton the brother of the one part, and the ſaid Benjamin Money of the other part, he the ſaid Henry Stoughton the brother, for and in conſideration of a certain ſum of money therein mentioned, granted and releaſed to the ſaid Benjamin Money and his heirs the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. to have and to hold the ſame unto the ſaid Benjamin Money, his heirs and aſſigns, to the only uſe and behoof of the ſaid Benjamin Money, his heirs and aſſigns for ever; by virtue whereof, and alſo by force of the ſtatute aforeſaid, he the ſaid Benjamin Money was ſeiſed of the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. in his demeſne as of fee, and being ſo ſeiſed thereof, he the ſaid Benjamin afterwards, to wit, on the fifteenth day of November 1748, at Burnham Deepdale aforeſaid, made his laſt will and teſtament, and thereby gave and deviſed the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. unto the ſaid Elizabeth his then wife, for and during the term of her natural life, or ſo long time as the ſaid Elizabeth ſhould continue his widow; and afterwards to wit, on the ſame day and year aforeſaid, at Burnham Deepdale aforeſaid, he the ſaid Benjamin died ſeiſed of ſuch his eſtate therein, after whoſe death the ſaid Elizabeth entered into the ſaid manor of Burnham Deepdale, with the appurtenances, to which, &c. and was ſeiſed thereof in her demeſne as of freehold determinable as aforeſaid, and the ſaid Elizabeth hath never ſince been married, and the ſaid Elizabeth being ſo ſeiſed thereof as aforeſaid the ſaid church became vacant by the death of the ſaid Thomas Green the laſt incumbent thereof, by reaſon thereof it then belonged to the ſaid Elizabeth to preſent a fit perſon to the ſaid church ſo being vacant, and thereupon ſhe the ſaid Elizabeth, to the church being ſo vacant, preſented the aforeſaid

Said H S. conveys by leaſe and releaſe to B. M.

Deed of leaſe.

Deed of releaſe.

Said B. M. made hi will, and deviſed the ſaid manor to which, &c. to his wife during widowhood, and died.

The ſaid church became vacant.

Said Elizabeth, (the wife of ſaid B. M.) preſented H. C. who was admitted, and is parſon.

ſaid Humphry Chriſtian, clerk, to the ſaid biſhop of Norwich, ordinary of the ſame place, as it was lawful for her to do, and upon the ſaid preſentation of the ſaid Elizabeth Money the ſaid Humphry Chriſtian, before the iſſuing of the ſaid writ of the ſaid John Anſtis now plaintiff was admitted, inſtituted, and inducted therein, and by reaſon thereof, from thence hitherto hath been and ſtill is parſon of the ſaid church, imparſoned in the ſame on the ſaid preſentation of the ſaid Elizabeth Money, without this, that the ſaid advowſon of the ſaid church of Burnham Deepdale doth belong to the ſaid manor of Poulſtead Hall, alias Weſtgate, with the appurtenances, as the ſaid John Anſtis now plaintiff hath in declaring above alledged, and this the ſaid Elizabeth is ready to verify; wherefore ſhe prays judgment if the ſaid John Anſtis now plaintiff ought to have his action aforeſaid againſt her, &c.

Traverſe that the ſaid advowſon belongs to the ſaid manor of P. H.

Clerk's plea. And the ſaid Humphry Chriſtian ſaith, that he is parſon of the ſaid church of Burnham Deepdale, imparſoned in the ſame on the preſentation of the ſaid Elizabeth Money, and that the ſaid John Anſtis now plaintiff ought not to have his action aforeſaid againſt him, becauſe proteſting, &c. (the ſame plea as Elizabeth Money.)

Replication to biſhop's plea. And the ſaid John Anſtis the now plaintiff as to the aforeſaid plea of the ſaid biſhop above pleaded, ſince that the ſaid biſhop claims nothing in the ſaid church, nor in the ſaid advowſon thereof, but the admiſſion and inſtitution of parſons into the ſame church and amoval of them therefrom, and all ſuch other things as belong to the ordinary of that place, prays judgment and a writ to the ſame biſhop, &c.; it is therefore conſidered that the ſaid John Anſtis the now plaintiff do recover againſt the ſaid biſhop his preſentation to the ſaid church, and that he have a writ to the ſaid biſhop, that notwithſtanding the *diſclaimer* of him the ſaid biſhop, he admit a fit perſon to the church aforeſaid at the preſentation of the ſaid John Anſtis the now plaintiff, &c. and no amercement of the ſaid biſhop becauſe he excuſeth himſelf of any ſpecial impediment, &c. but let the execution thereof ſtay until the aforeſaid plea between the ſaid John Anſtis the now plaintiff, and the ſaid Elizabeth Money be determined, &c.

Replication to patron's plea; iſſue joined, whether the church of Burnham Deepdale was appendant to the manor of Burnham Deepdale, or the manor of Poulſtead Hall, *alias* Weſtgate. And the ſaid John Anſtis the now plaintiff as to the aforeſaid plea of the ſaid Elizabeth Money above pleaded in bar ſaith, that he by any thing before alledged by the ſaid Elizabeth in the ſaid plea ought not to be barred from having his ſaid action againſt her, becauſe he as before ſaith, that the ſaid advowſon of the ſaid church of Burnham Deepdale doth belong to the ſaid manor of Poulſtead Hall, alias Weſtgate, with the appurtenances, as the ſaid John Anſtis the now plaintiff hath in declaring above alledged, and this he prays may be enquired of by the country, &c. and the ſaid Elizabeth Money doth the ſame, &c.

And

And, &c. becauſe he as before ſaith, that the ſaid advowſon of the church of Burnham Deepdale doth belong to the ſaid manor of Poulſtead Hall, alias Weſtgate, with the appurtenances, as the ſaid John Anſtis the now plaintiff hath in declaring above alledged, and this alſo he prays may be enquired of by the country; and the ſaid Humphrey Chriſtian doth the ſame; therefore, &c.

Replication to clerk's plea;

WILLIAM HOWARD *againſt* THE BISHOP OF DURHAM, MATTHEW BELL, AND JOHN ANSLEY.

NORTHUMBERLAND, to wit. Edward, biſhop of Durham, Matthew Bell, gentleman, and John Anſley, clerk, were ſummoned to anſwer

Declaration by infant by next friend ſtates,

William Howard, eſquire, of a plea that they permit the ſaid William to preſent a fit perſon to the church of Elſdon which is vacant and in his gift, and whereupon the ſaid William, by Elizabeth Howard, widow, his mother, who is admitted by the court of our lord the king here to proſecute for the ſaid William, who is under the age of twenty-one years, as next friend of the ſaid William Howard ſays, that one Richard Newman and Thomas Lee were ſeiſed of and in the manor of Riddeſdale, with the appurtenances, in the ſaid county, to which manor the advowſon of the church of Elſdon aforeſaid did belong and doth yet belong in that demeſne as of fee, and being ſo ſeiſed, they the ſaid Richard Newman and Thomas Lee, on the third of June 1667, at Elſdon aforeſaid, by a certain indenture then and there made between James, then earl of Suffolk, and the ſaid Richard Newman and Thomas Lee, by the names of the right honourable James earl of Suffolk, Richard Newman, of the Middle Temple, London, eſquire, and Thomas Lee, of the Middle Temple, London, aforeſaid, eſquire, of the one part, and the honourable Henry Howard, eſquire, and John Jeffs, by the names of the honourable Henry Howard, of London, eſquire, and John Jeffs, of the pariſh of Saint Martin in the Field, in the county of Middleſex, gentleman, of the other part, (one part of which ſaid indenture, ſealed with the ſeals of the ſaid earl, Richard Newman, and Thomas Lee, the ſaid William Howard brings here into court, the date whereof is the day and year aforeſaid) for and in conſideration of a certain ſum by them in hand paid by the ſaid Henry Howard and John Jeffs, bargained and ſold the ſaid manor of Riddeſdale, with the appurtenances, to which, &c. to the ſaid Henry Howard and John Jeffs, to have and to hold the ſame to them and their aſſigns, from the day next before the day of the date thereof unto the full end and term of one whole year from thence next enſuing, and fully to be complete and ended, as by the ſaid indenture here into court brought more fully appears, by virtue of which bargain and ſale, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid Henry Howard and John

R. N. and T. L. were ſeiſed of the manor of R. to which, &c.

And by indenture, third of June 1667, bargained and ſold to H. H. and J. J.

Deed of leaſe, &c. &c.

Jeffs being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid Richard Newman and Thomas Lee as aforeſaid, afterwards, to wit, on the fourth of June 1667, at Elſdon aforeſaid, by a certain other indenture then and there made between the ſaid earl of Suffolk, Richard Newman, of, &c. and Thomas Lee, of, &c. of the firſt part, one ſir Charles Howard, knight, Dame Elizabeth his wife, and James Howard, eſquire, by the names of ſir Charles Howard, of London, knight, one of the gentlemen of his majeſty's band of penſioners, and Dame Elizabeth his wife, and James Howard, eſquire, ſon and heir of the ſaid ſir Charles Howard, by the ſaid Dame Elizabeth of the ſecond part; and the ſaid Henry Howard and John Jeffs, by their names of, &c. of the third part, (the firſt part of which ſaid laſt-mentioned indenture, ſealed with the ſeals of the ſaid earl, Richard Newman, and Thomas Lee, the ſaid Thomas Howard brings here into court, the date whereof is the day and year laſt mentioned) did releaſe unto the ſaid Henry Howard and John Jeffs the manor aforeſaid, with the appurtenances, to which, &c. to have and to hold to the ſaid Henry Howard and John Jeffs, to the uſe and behoof of the ſaid William Charlton (*a*) and his heirs for and during the term of the natural life of the ſaid ſir Charles Howard and Dame Elizabeth his wife, and the longer liver of them two, and from and after the deceaſe of the ſurvivor of them two, to the uſe and behoof of the ſaid James Howard, eſquire, and the heirs of his body lawfully begotten or to be begotten, and in default of ſuch iſſue, to the uſe and behoof of all and every other ſon and ſons of the body of the ſaid ſir Charles Howard on the body of the ſaid Dame Elizabeth his wife lawfully to be begotten, and the heirs of the body of ſuch other ſon and ſons iſſuing reſpectively as they ſhould be in ſeniority of age and priority of birth to take ſucceſſively and not jointly, but the one after the other the elder of ſuch ſons and the heirs of his body being always preferred before the younger of ſuch ſons and the heirs of his body, and in default of ſuch iſſue, to the uſe and behoof of all and every the daughter and daughters of the body of the ſaid ſir Charles on the body of the ſaid Dame Elizabeth his wife lawfully to be begotten, and the heirs of their ſeveral and reſpective bodies lawfully iſſuing, and in default of ſuch iſſue, then to the uſe and behoof of the ſaid James, earl of Suffolk, his heirs and aſſigns for ever, as by the laſt-mentioned indenture brought here into court more fully appears, by virtue of which ſaid indenture of releaſe, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid William Charlton became and was ſeiſed of the ſaid manor, to which, &c. with the appurtenances, in his demeſne as of freehold for the term of the natural lives of the ſaid ſir Charles Howard and Dame Elizabeth his wife, and the life of the ſurvivor of them, the remainder thereof belonging to the ſaid James Howard and the

(*a*) There muſt be ſome inaccuracy in reciting the parties to the deed, William Charlton, not before mentioned, muſt have been interpoſed as a truſtee.

heirs of his body lawfully iſſuing; and the ſaid William Charlton being ſo ſeiſed, the ſaid ſir Charles Howard and Elizabeth his wife, afterwards, to wit, on the firſt of April 1690, at the pariſh of Elſdon aforeſaid died, and after the deceaſe of the ſaid ſir Charles and Elizabeth, the ſaid James Howard entered into the ſaid manor, to which, &c. with the appurtenances, and was ſeiſed thereof in his demeſne as of fee tail, *i. e.* to him and the heirs of his body lawfully iſſuing; and being ſo ſeiſed thereof, the ſaid James afterwards, to wit, on the firſt of May 1701, at the pariſh aforeſaid, died ſeiſed of ſuch his eſtate therein, after whoſe death the manor aforeſaid, with appurtenances, to which, &c. deſcended to Charles Howard as ſon and heir of the body of the ſaid James Howard lawfully begotten, whereby the ſaid Charles Howard entered into the ſaid manor, with the appurtenances, to which &c. and was ſeiſed thereof in his demeſne as of fee tail, *i. e.* to him and the heirs of the body of the ſaid James Howard lawfully begotten, and being ſo ſeiſed thereof, he the ſaid Charles Howard afterwards, to wit, on the fifth of May 1720, at the pariſh aforeſaid, died ſeiſed of ſuch his eſtate therein, after whoſe deceaſe the manor aforeſaid, with the appurtenances, to which &c. deſcended to Charles Francis Howard as ſon and heir of the ſaid Charles Howard lawfully begotten, whereby the ſaid Charles Francis Howard entered into the ſaid manor, with the appurtenances, to which, &c. and was ſeiſed thereof in his demeſne as of fee tail, *i. e.* to him and the heirs of the body of the ſaid James Howard lawfully iſſuing, and being ſo ſeiſed thereof, he the ſaid Charles Francis Howard preſented Hugh Sarrington, clerk, to the ſaid church being vacant, who upon the preſentation of the ſaid Charles Francis Howard was admitted, inſtituted, and inducted into the ſame in the time of peace, in the time of the late king George the Firſt; and the ſaid Charles Francis Howard being ſo ſeiſed of the ſaid manor, to which, &c. with the appurtenances, afterwards, to wit, on the nineteenth of February 1735, at the pariſh aforeſaid, died ſeiſed of ſuch his eſtate therein, after whoſe deceaſe the ſaid manor, with the appurtenances, to which, &c. deſcended to the ſaid William Howard, eſquire, as ſon and heir of the body of the ſaid Charles Francis Howard lawfully begotten, whereby the ſaid William Howard entered into the ſaid manor, with the appurtenances, to which, &c. and was and yet is ſeiſed thereof in his demeſne as of fee tail, that is to ſay, to him and the heirs of the body of the ſaid James Howard lawfully iſſuing, and being ſo ſeiſed thereof, the ſaid church became vacant by the death of the ſaid Hugh Sarrington the laſt incumbent thereof, and yet is vacant, and by reaſon thereof at preſent it belongs to the ſaid William Howard to preſent a fit perſon to the ſaid church ſo being vacant, and they the ſaid biſhop, Matthew Bell, and John Anſley unjuſtly hinder him the ſaid William Howard from preſenting a fit perſon to the ſaid church, whereupon he the ſaid William ſaith that he is injured, and hath damage to the value of five hundred pounds, and thereof he brings ſuit, &c.

And

Biſhop's plea, that the church is within his dioceſe, and that he only claimed admiſſion, &c. prays judgment, &c. without aſſigning ſome ſpecial impediment.

And the ſaid biſhop of Durham, Matthew Bell, and John Anſley, by Hugh Watſon, their attorney, come and defend the force and injury when, &c. and the ſaid biſhop ſaith, that the ſaid church of Elſdon is within the dioceſe of Durham, and that he neither hath nor claims to have any thing in the ſaid church nor in the advowſon thereof, except the admiſſion, inſtitution, and induction of parſons to the ſaid church, and other the matters which belong to him as ordinary of the ſaid church, and this he is ready to verify; wherefore he prays judgment if the ſaid William Howard without a ſpecial impediment in the perſon of the ſaid biſhop in this behalf to be aſſigned ought to have his action aforeſaid thereof againſt him.

Patron and clerk's plea.

And the ſaid Matthew Bell and John Anſley, by A. B. their attorney, come and defend the force and injury when, &c. and the ſaid attorney ſaith that he is not informed by the ſaid Matthew Bell and John Anſley, or either of them, of any anſwer to be given for them, or either of them, to the ſaid William Howard in the plea aforeſaid, and ſaith nothing further thereupon, by reaſon whereof the ſaid William Howard remains againſt the ſaid Matthew and John without defence.

Non ſum informatus.

Judgment and writ to the biſhop.

And the ſaid William Howard, as to the ſaid plea of the ſaid biſhop above pleaded, ſince that the ſaid biſhop claims nothing in the ſaid church nor in the advowſon thereof, except the admiſſion, inſtitution, and induction of parſons to the ſaid church as ordinary of the ſaid church, prays judgment and a writ to the ſaid biſhop; it is therefore conſidered that the ſaid William Howard do recover againſt the ſaid biſhop, Matthew Bell, and John Anſley, his preſentation to the ſaid church, and that he have a writ to the biſhop that notwithſtanding the diſclaimer of the ſaid biſhop, Matthew Bell, and John Anſley, he admit a fit perſon to the church aforeſaid upon the preſentation of the ſaid William Howard, and the ſaid biſhop is not amerced, becauſe he excuſeth himſelf from any ſpecial impediment, &c. and the ſaid Matthew Bell and John Anſley are in mercy; and hereupon the ſaid William Howard freely here in court remits to the ſaid biſhop, Matthew Bell, and John Anſley whatever damages might be adjudged to him on occaſion of the premiſes; therefore the ſaid biſhop, Matthew Bell, and John Anſley are thereof acquitted.

Remittit ꝓr damna. This ſhews it is an injury without force. Vide 3 Blackſtone's Commentaries, vo. 3. p. 398.

Quare impedit at the ſuit of the party.

GEORGE the Third, &c. to the ſheriff of Staffordſhire, greeting: Command A. B. biſhop of Litchfield and Coventry, that juſtly and without delay he permit Mary Powys, ſpinſter, to preſent a fit perſon to the church of Cheekly in your county, which is vacant, and in the gift of the ſaid Mary Powys as it

is ſaid; and whereupon the ſaid Mary Powys complains that the ſaid biſhop unjuſtly diſturbs her, and unleſs the ſaid biſhop ſhall ſo do, and if the ſaid Mary ſhall give you ſecurity to proſecute her claim, then ſummons by good ſummoners the ſaid biſhop, that he be before our juſtices at Weſtminſter in fifteen days from the day of Eaſter, to ſhew wherefore he will not do it, and have you there the ſummoners and this writ. Witneſs ourſelf at Weſtminſter the day of in the thirty firſt year of our reign.

Drawn by Mr. TIDD.

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92. to 95. Declaration by adminiſtrator *cum teſtamento annexo*, ſtating that H. B. ſeiſed of advowſon in groſs, 35. C. 2. by indenture granted to Cole for one thouſand years. Avoidance by death, and Cole preſented Elſeley. Cole died. Avoidance by death of Elſeley. Adminiſtration granted, and it belongs to him, &c. Profert of letters of adminiſtration. Plea as uſual by biſhop. Imparlances. Writ to the biſhop. Suggeſtion that the archbiſhop of York is tranſlated to the ſee of Canterbury, and the biſhop of Bangor tranſlated to York, and prays a writ to him.

95. to 97. Declaration by executor, ſtating that J. H. ſeiſed of the manor to which advowſon was appendant, preſented, and died, and that ſon being ſeiſed demiſed the manor to his brother for five hundred years, and by indenture he aſſigned to John Roydhouſe for the remainder of the term. Several aſſignments, till the laſt to William Cock, who died poſſeſſed. Aſſignment by executors to plaintiff's father, who died poſ-

ſeſſed,

ſeſſed, and church becoming vacant it belongs to plaintiff for the reſidue of the term. Profert of letters teſtamentary. Plea by biſhop as uſual. By patron, proteſting that J. H. was not ſeiſed; for plea, that T. S. being ſeiſed, granted next preſentation to ſaid J. H. and church being vacant J. H. preſented, and T. S. made his will, deviſing to wife for life, with remainder to T. S. his ſon in fee. Reverſion deſcended to H. S. the brother, who conveys by leaſe and releaſe to B. M. who makes his will, and deviſes the manor to wife during widowhood, church vacant ſhe preſented; traverſes that advowſon belongs to the manor of Poulſted Hall. Plea by clerk ſimilar to plea by patron. Replication to biſhop's plea. To patron's plea, and iſſue joined, whether the church is appendant to the manor of Burnham Deepdale or the manor of Poulſtead Hall, alias Weſtgate. Replication to clerk's plea, and iſſue.

103. Declaration by infant by *prochein ami*, ſtates that R. N. and T. L. ſeiſed by indenture, bargained and ſold to H. H. and J. J. and that the manor to which, &c. was limited in ſtrict ſettlement; that plaintiff's father preſented, and the manor deſcended to plaintiff an infant; church became vacant, and it now belongs, &c. Plea by biſhop as uſual, By patron and clerks, attorney *non ſum informatus*. Judgment, and prays a writ to the biſhop, and *remittit damna*.

106. Original writ of *quare impedit* at the ſuit of the party.

Declaration in *quare impedit* ſtates that the record is entered of Michaelmas Term in the ſecond year of the preſent king. And grant of moiety of a church to the plaintiff in fee of the advowſon and ſtatute 21. *H.* 8. againſt pluralities. Plea, that the biſhop claims nothing but as ordinary. Plea by biſhop, that the church was void *on inſtitution* to the ſecond living, and continued void ſix months, and after that time he collated by lapſe. Plea by incumbent, that the biſhop collated the church on him by lapſe. Replication to the biſhop's plea, that the late incumbent was not inducted to ſecond living till twenty-ſecond December 1759, and that within ſix months after he preſented his clerk to the biſhop, who refuſed to inſtitute him to the incumbent's plea. The biſhop's rejoinder. The incumbent's rejoinder. Demurrer, 1. Wilſ. Rep. 174. b. 176. b. 178. b. 179

Declaration in *quare impedit*, plaintiff makes title as truſtee of a term of five hundred years under a ſettlement in 1706. Plea by the defendant, the patron of the incumbent, that before the ſettlement one P. C. ſenior, was ſeiſed, and 10. Wm. 3. ſuffered a recovery to the uſe of the truſtees for one thouſand years, which is ſtill ſubſiſting, and ſays that nothing paſſed to the plaintiff by the ſettlement in 1706. The defendant the incumbent makes title under the other defendant his patron as heir in tail of P. C. junior, and tra-

verſes

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verſes that P. C. ſenior was ſeiſed in fee as is alledged in the declaration, and iſſue is joined on that traverſe. Replication to patron's plea, and alledges that P. C. junior, being ſeiſed in tail 5. Ann. levied a fine with proclamations, whereby he became ſeiſed in fee before the ſettlement in 1706; that the term of one thouſand years is thereby barred for want of entry and claims, &c. Demurrer by defendant the patron. Judgment for the defendant, becauſe the parties to the fine at the time of levying thereof *nil habuerunt in advocatione*, the ſaid term of one thouſand years being a *ſubſiſting* term, and was never diveſted or turned to a right, - - - - 1. Wilſ. Rep. 223

Writ of error from C. B. to B. R. in *quare impedit* at the ſuit of the king againſt the Prior and one Dandy. Return thereto. Tranſcript. Firſt declaration ſtates that Car. 2. was ſeiſed of the advowſon *in groſs*, and preſented his clerk, who was admitted, &c. after which the king died, and the ſame deſcended to Jac. 2. who abdicated the throne, whereupon W. and M. became ſeiſed, and they were entitled to preſent, &c. but defendant hindered them. Four imparlances. Plea, that one P. S. was ſeiſed of the manor of, &c. to which ſaid advowſon belonged, and demiſed to one F. who aſſigned to P. who preſented, and died, and his adminiſtrator granted preſentation to one defendant, who preſented the other, and traverſes that king Charles's preſentee was inſtituted, &c. Incumbent ſays that he was parſon. Imparlance, and traverſe as above. Iſſue on patron's traverſe, and on incumbent's iſſues ſent to the biſhop of the dioceſe to be tried. Biſhop's certificate. Judgment for the king. - - - Lill. Ent. 539. to 548

Count in *quare impedit*, ſets forth that plaintiffs were ſeiſed in fee of the advowſon of Allhallows, Honey Lane, *in groſs*; that in March 1663 they preſented Thomas Hutchinſon, who was admitted, &c.; that the archbiſhop of Canterbury was ſeiſed in fee of the advowſon of St. Mary-le-Bow *in groſs*, and that William Juxon, then archbiſhop, in October 1762, collated George Smallwood; that the ſame archbiſhop was ſeiſed of the advowſon of St. Pancras, Roper Lane, in fee, in groſs, and in June 1662 collated Samuel Dillingham; that the three churches were deſtroyed by fire, and thereupon, by the ſtatute 22. Car. 2. it was enacted that *the three pariſhes ſhould be united*, and that Bow Church ſhould be the pariſh church of the three pariſhes; that the reſpective patrons of the three churches ſo united ſhould preſent by turns to that church only, the firſt preſentation to be made by the patron of ſuch of the ſaid churches the endowment whereof was of the greateſt value; by virtue whereof the archbiſhops and plaintiff became ſeiſed of the advowſon of Bow Church, and the other two in fee as of one *in groſs*, and entitled to preſent to Bow Church aforeſaid; that after the ſtatute the church of Bow became vacant by the death of George Smallwood, and

archbiſhop

archbiſhop Sandcroft in 1679 collated Timothy Puller; that the church became vacant by the death of Puller, and archbiſhop Tillotſon, in 1693, as in his ſecond term, collated Samuel Bradford, who was afterwards created biſhop of Rocheſter, and the church thereby became vacant, whereby king Geo. 1. *by his prerogative*, dated the tenth of July 1720, Dr. Samuel Liſle to Bow Church, with the other two churches, who was admitted, &c. and afterwards created Biſhop of St. Aſaph, whereupon king Geo. 2. on the tenth of April 1744, preſented Dr. Newton in like manner, who was admitted, &c. and that after the church became vacant by *reſignation*, and is yet void, by reaſon whereof it belongs to the plaintiffs in their turn, being the third, to preſent a fit perſon, but defendants hinder them. Demurrer by the archbiſhop, one of defendants generally to the declaration. Plea by the other defendant, that he is *parſon* of the church on the preſentation of the archbiſhop, that the plaintiffs ought not to have their action. Admits that plaintiff was ſeiſed of Allhallows, Honey-lane, and preſented Hutchinſon; that the archbiſhop was ſeiſed of Bow church, and collated Smallwood; archbiſhop ſeiſed of St. Pancras, Soper-lane, and collated Dillingham; that the three churches were burnt, and that thereupon the archbiſhop became ſeiſed and entitled to preſent as in the declaration, and that Bow Church became vacant by the death of Smallwood as in the declaration; but this defendant further ſays, that Bow Church was of greater value than either of the other two churches, and that the church of Allhallows, &c. was of greater value than St. Pancras, &c. viz. of ſo much reſpectively per annum, by reaſon whereof the archbiſhop for the time being became entitled to preſent to Bow Church in the firſt turn, the plaintiffs in the ſecond turn, and the archbiſhop in the third turn; and true it is that archbiſhop Sandcroft, on the death of Smallwood did in his *firſt* turn collate Puller, and that the church became vacant by the death of Puller, *but* that thereupon, *according to the ſaid ſtatute*, it belonged to the plaintiffs to preſent in their *ſecond* turn, but that archbiſhop Tillotſon collated Bradford *by uſurpation*; that Bradford being in the ſaid church, was created biſhop of Rocheſter, and king George the Firſt preſented Dr. Liſle, who was admitted, &c. and Dr. Liſle being ſo clerk of the ſaid church, was created biſhop of St. Aſaph, and king George the Second preſented Dr. Newton, who was admitted, &c. and afterwards the church became vacant by the reſignation of Dr. Newton, by reaſon whereof it belonged to the preſent archbiſhop to preſent in his *third* turn, and that thereupon he collated this defendant before the iſſuing of plaintiff's writ, by reaſon whereof this defendant is ſtill *parſon imparſonee*; and this, &c.; wherefore, &c. Joinder in demurrer with archbiſhop, and pray judgment and a writ to the biſhop. Replication

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to plea of the *other defendant*; ſay, they ought not to be barred, becauſe *proteſting* that Allhallows, &c. *was not*, at the time of making the ſaid ſtatute, *of greater value* than St. Pancras; *proteſting* alſo, that archbiſhop Tillotſon *did not uſurp* upon plaintiffs. For *replication* plaintiffs ſay, that the church became vacant by the reſignation of Dr. Newton, and it belongs to plaintiffs to preſent in their *third* turns, yet the defendants *hinder* them; *without this*, that it belonged to the plaintiffs to preſent at the *ſecond turn* when the church became vacant by the death of Puller, as this defendant hath alledged in his plea. Demurrer by defendant (the incumbent) to the replication, and ſhews for *ſpecial cauſe* that the plaintiffs *have not traverſed* any *matter of fact* alledged in the plea, but have traverſed *matter of law*. Joinder in demurrer, - - - - 2. Wilſ. Rep. 214. to 221

Count in *quare impedit* ſets forth that plaintiffs were ſeiſed of the advowſon of the church *in groſs*, and the ſame being vacant at the death of Dr. Burton; that in 1771 the church became vacant at the death of Dr. B. and is ſtill void, and it now belongs to plaintiffs to preſent thereto, but defendants hinder them. Plea by *biſhop*, that he claims no right but as ordinary. By *incumbent*, that he is *parſon imparſonee* on the preſentation of the preſent king, whoſe *title is deduced* from Car. 2. and that the church being vacant by the death of Dr. B. his preſent majeſty preſented the defendant, the incumbent; *without this*, that the plaintiffs were ſeiſed of the advowſon as they have alledged. Replication to the plea of the biſhop, but writ to the biſhop to ſtay until the plea be determined between the plaintiffs and the incumbent. Iſſue is alſo taken upon incumbent's traverſe and joined, and *venire facias* awarded. Jury find a ſpecial verdict, - - - - 2. & 3. Wilſ. Rep. 468

Declaration in *quare impedit* at the ſuit of the king againſt the biſhop of London and one Lancaſter; ſtates that the king is entitled *by reaſon of his prerogative*, and had preſented to a vicarage at various times, and complains that the vicarage being now vacant, *he hinders* them, &c. Plea in abatement, craving *oyer* of the writ, ſhews a *variance* between that and the *count*. Demurrer and joinder, - - Lill. Ent. 342. to 344

Writ of error to the judges of aſſize for the county of York in *quare impedit* on a judgment againſt the archbiſhop of York and another defendant at the ſuit of the king. Return thereto. Tranſcript, ſtating judgment of *reſpondeas ouſter* for the king on demurrer to the declaration. Plea, that defendant is *parſon imparſonee* on preſentation of one Stevens. Admits that earl of Carliſle was ſeiſed *in groſs*, and preſented one W. D. who was admitted, &c. thereupon, and that the earl afterwards granted the next advowſon to one T. S. who aſſigned to W. S. by whom defendant was preſented, who thereupon was *inſtituted*, &c; *traverſes* the *ſimony* charged in the declaration. Replication, takes iſſue on the traverſe. *Venire* awarded. Poſtea ſtates a

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challenge of the array for want of hundredors. Demurrer to the challenge, and joinder. Judgment of *quaſſetur* upon the array, and *venire de novo* awarded. *Jurata.* Poſtea. *Tales*, and verdict finding the ſimony, and judgment for the king at the aſſizes, - - - - - Lill. Ent. 344. to 346

Declaration in *quare impedit* by *executors* and *deviſees* in truſt, who entitle themſelves to the advowſon in queſtion under the will of Caleb Lomax, whom the declaration ſtates to have been ſeiſed in fee of the advowſon, and to have preſented on a former avoidance. Plea by defendant Edward Barker of *four* pleas; on the ſecond and third iſſue is joined; the firſt plea ſtates a title to the advowſon in one Ellis, who preſented in 1680, that Ellis conveyed it to Killigrew; that K. deviſed it to his wife Lucy for her life, and that the reverſion, on the death of K. deſcended to his three daughters in coparcenary; then ſtates an avoidance during the life of Lucy the widow, and a preſentation by Lomax, the father of the teſtator uſurping on Lucy; then that the living became vacant after the death of Lucy by the *reſignation* of the incumbent Romney, and that the crown by *uſurpation* on the right of the eldeſt coparcener preſented again the ſame clerk; then an avoidance by the death of that preſentee, and another preſentation on that avoidance by Lomax, uſurping upon the right of the ſecond coparcener. *A title is then deduced* at conſiderable length to the defendant from the ſecond and third coparcener, concluding with a claim to preſent on the exiſtent vacancy in the third term. Replication ſtates a *purchaſe* by Lomax of the right of L. K. the widow, and a preſentation of the advowſon made by him during the life of Lucy on an avoidance then happening. A fine is then ſet forth levied by the three coparceners of the advowſon, and a conveyance to Lomax under that fine. Having ſtated this title in behalf of the plaintiff in anſwer to the plea, the *replication concludes* that the reſignation was fraudulent and without notice, and *traverſes* that upon that reſignation it belonged to the eldeſt coparcener to preſent. Rejoinder, *traverſes* the *fine*. Special demurrer, *that it is a traverſe upon a traverſe*. (See this more fully indexed, *poſt.*) - - - - 1. H. Bl. Rep. 376

Count in *quare impedit*, that one J. H. was ſeiſed of the undivided ſixth parts of the rectory of C. and R. G. of the other parts as tenants in common, to which rectory the *nomination* to the curacy did belong. Curacy vacant. J. H. and R. G. nominate C. L. Fine *ſur conuſance de droit come-ceo* levied to the uſe of J. H. in fee. Curacy augmented by queen Anne's bounty. J. H. grants to plaintiff right of nomination when vacant. Curacy void, by reaſon whereof, &c. Plea by *clerk*, that he is curate on the nomination of Geo. 1. and duly licenſed. Geo. 1. ſeiſed of the perpetual curacy in *groſs* as of fee, in right of his crown. Curacy vacant. H. D. preſented by Geo. 1. and was duly licenſed. Death of Geo. 1. Geo. 2. ſeiſed. Death of H. D. on

whoſe

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whoſe death T. H. and R. G. uſurped on G. 2. and nominated C. L. Death of G. 2. G. 3. ſeiſed. Death of C. L. whereupon it belonged to the preſent king; *traverſe* that nomination belonged to plaintiffs. Replication, taking iſſue on the traverſe, - - - - - 1. H. Bl. Rep. 418

Quare impedit to recover preſentation of Weſt Coker, in Somerſetſhire. Declaration ſtates W.R. ſeiſed in fee. Preſentation. Deſcent to nieces Jane and Mary in coparcenary. Their marriage. Huſband of Jane dies, and ſhe with the huſband of Mary in right of Mary preſent. Deſcent to ſon of Jane, who together with Mary and her huſband in her right preſent. Nathaniel Webb, executor of Jane, dies. Deſcent to his ſon Nathaniel. Mary Proctor dies, her ſhare deſcended to her grandſon Thomas, who became ſeiſed with Nathaniel. Church being vacant, they could not agree, and Nathaniel preſents the ſaid Thomas, as in the firſt term of Jane, who dies, and deſcent to Elizabeth Proctor his ſiſter, who preſent as in the turn of Mary. Plea by ordinary as uſual; by the other defendants, that Mary Proctor being ſeiſed, deviſed her right of preſentation to the firſt or other ſon of her grandſon that ſhould be bred a clergyman and in holy orders, and in caſe of failure of iſſue, &c. to Thomas Moore in fee. That Thomas Proctor died without iſſue, whereby Moore became ſeiſed, &c. - 2. H. Bl. Rep. 358

Quare impedit. Plea in bar 21. H. 8. againſt plurality, taking two benefices, and entitles himſelf by lapſe from the queen, - - - - - Pl. Gen. 485

Quare impedit of the church of St. Andrew Wardrobe, St. Ann, Blackfriars, and St. Andrew Wardrobe, were burnt by the fire of London 1666. The act for uniting ſeveral pariſh churches, particularly St. Ann's and St. Andrews, and St. Andrews Wardrobe to be the pariſh church. The patrons to preſent by turns, and who to preſent the firſt time. St. Andrews of greater value. At the time of the act J. G. ſeiſed in fee of Blackfriars, and C. 2. was *patron* of St. Andrew's. At the time of the act J. C. was incumbent of St. Andrew Wardrobe, T. G. ſells his advowſon of Blackfriars to ſeveral of the inhabitants in fee. J. C. died, by which St. Andrews was firſt void after the act, and C. 2. preſented J. S. who was inſtituted and inducted. Inhabitants of Blackfriars all dead but the plaintiffs. J. S. the king's incumbent, dies, whereby plaintiffs, as ſurviving grantees, ought to preſent, - - - - 1. Ld. Raym. 192

Count in *quare impedit* of the church of Bedal by the *crown*. States that Queen Eliz. was ſeiſed in fee of the advowſon in *groſs* of the church, and on the 14th of February, in the twelfth year of her reign, *preſented* Tyms by her letters-patent, who was *admitted*, &c. The queen died ſeiſed of the advowſon, which deſcended to Jac. 1. who was ſeiſed in fee. The church became void by the death of *Tyms*, and J. W. was preſented by Jac. 1. 13th of July, 19. A. R. and admitted, &c. Jac. 1. died ſeiſed, and the advowſon

deſcended

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deſcended to Car. 1. Church void by death of Wilſon. Car. 1. preſented Dr. Wickham. J. Piers preſented Metcalf by *uſurpation*, admitted, &c. Car. 1. died ſeiſed, and advowſon deſcended to Car. 2. Church void by death of M. Car. 2. preſented Dr. Samways, admitted, &c. Car. 2. died ſeiſed, advowſon deſcended to Jac. 1. who being ſeiſed, abdicated the realm, by which the advowſon came to the now king and queen, who are ſeiſed, and the church void by death of Dr. Samways, whereupon it belongs to king and queen to preſent, - - 1. Ld. Raym. 292

Writ of error in *quare impedit*. Return from C. B. to B. R. of the record of common pleas. Declaration by *executor* of the grantee of the next turn to preſent. States indenture of agreement between joint tenants to preſent by turns. *Profert*. Firſt preſentation avoidance by death; ſecond preſentation one moiety deſcends. Covenant to ſtand ſeiſed in conſideration of *blood* of one moiety to the uſe of R. H. in tail, remainder in tail to R. H. Remainder to uſe of covenantor in fee. Deſcent in tail. Second deſcent in tail to R. H. who made a *grant* of the next avoidance to the teſtator, and F. S. their executors and aſſigns. T. S. one of the grantees of the turn, dies, and plaintiff's teſtator ſurvives. Avoidance in teſtator's lifetime by death, and it belonged to teſtator to preſent, but defendants *hindered* him, who made his will, and plaintiff *executor*, who proved the will, and ſo it belongeth to plaintiff to preſent. Averment that grantor is living, and the identity of the church. *Profert* of the will. Plea, *parſon imparſonee*, admits avoidance, and *the biſhoprick* collated by lapſe. Replication, admits the time of the avoidance, but ſays, that within the ſix months the teſtator by writing preſented J. S. and requeſted the biſhop to admit him, who refuſed. Rejoinder, admits the preſentation, but ſays, that J. S. took it away, and deſired him to prepare himſelf for examination, and never came again to be examined, ſo the biſhop collated J. S. the other defendant, and *traverſes* that he refuſed to admit. Surrejoinder, and iſſue upon the traverſe. *Venire facias. Non miſit breve. Niſi prius. Poſtea.* Returned verdict, that the biſhop *refuſed to admit* J. S. upon the plaintiff's teſtator's preſentation, and that the church is *full* of the collation of the biſhop, and is of the yearly value of one hundred pounds; coſts forty ſhillings. Judgment and writ awarded to the archbiſhop. Mercy. Errors aſſigned. Diminution alledged. *Certiorari* to *cuſtos brevium* of C. B. to ſearch for and ſend the original to B. R. Original writ and return. Eſſoin. Pledges. Summoners. Same errors as before. Plea, *in nullo*, &c. and prays judgment may be affirmed, and judgment was affirmed, - - *Ibid.* 535

Count in *quare impedit* ſtates that plaintiffs are *executors*, and deviſees in truſt by the will of C. L. eſquire, that C. L. was ſeiſed in fee of the advowſon *in groſs*, and preſented one D. B. his clerk, who was admitted in the reign of Geo. 2.

That

That C. deviſed to plaintiffs till his ſon ſhould attain twenty-five years, or die with remainders over; that C. L. died without altering his will, his ſon being then alive and under twenty-five years, whereby plaintiffs became ſeiſed. That the ſon C. L. is under twenty-two, by reaſon whereof it belongs to plaintiff to preſent. Plea by biſhop, the uſual plea. By B. the clerk, that *he did not hinder*; by defendant, firſt, that J. E. was ſeiſed in fee of the advowſon, and preſented T. P. his clerk, and deviſed to R. his wife for life, remainder to his ſon J. E. in tail male. That he died. That R. the wife was ſeiſed for her life, and died. That J. E. was ſeiſed in tail male, and ſuffered a common recovery of the advowſon to the uſe of himſelf in fee. That J. E. and his wife levied a fine to the uſe of H. K. in fee. Church vacant by death of P. lapſe to Will. 3. who preſented J. F. Deviſe by H. K. to L. his wife for life. Death of H. K. without iſſue male. L. tenant for life. Reverſion deſcended to *three* daughters of H. K L. M. and J. in *coparcenary*. M. married E. B. defendant's grandfather. Church vacant by death of F. C. L. preſented John Romney by *uſurpation* on L. K. the mother. Her death. J. C. huſband of L. the *eldeſt* daughter ſeiſed in her right of one *third* of the advowſon. E. B. the grandfather, and M. his wife, ſeiſed of another *third*, and J. K. ſeiſed of the remaining third. Church vacant by *reſignation* of Romney. *Firſt* avoidance after the death of *the mother*, becauſe they did not agree to preſent, and that it belonged to J. C. huſband of the *eldeſt* daughter, to preſent. Geo. 2. *uſurping* on him, preſented *Romney*. Deviſe of *third* part by J. K. to truſtees, for ſuch uſes as M. B. notwithſtanding her coverture, ſhould appoint, remainder in truſt for E. B. her ſon, *the father of the defendant*, in tail general. Death of J. K. and of M. B. E. B. the grandfather, her huſband, becomes *tenant by the curteſy* of her third part, reverſion thereof deſcended to E. B. the father, ſon of M. E. B. the father ſeiſed of J. K.'s *third* part in tail general. Church vacant by death of Romney. *Second* avoidance after the death of L. the mother. During the vacancy E. B. the grandfather died, having made will and appointed executors. E. B. father ſeiſed in fee of his mother *Mary's third* part, and in tail of his aunt Judith. Preſentation belonged to executors of E. B. the grandfather. C. L. by *uſurpation* on them preſented Bellamy. E. B. father, ſuffered a common recovery of the *two third* parts of M. B. and J. K. to the uſe of himſelf in fee. Conveyance by E. B. father of the ſame, to *truſtees* to the uſe of himſelf for life, remainder to preſerve contingent remainders, remainder to the uſe of Ann his wife for life, remainder to the uſe of their children in ſuch manner as E. B. father ſhould appoint. Appointment by E. B. father of the ſaid *two third* parts, to the uſe of E. B. his ſon, *the defendant* in fee, by virtue of which E. B. the defendant became ſeiſed of the reverſion. Death of fa-

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ther. Ann ſeiſed for life. Conveyance by her and E. B. defendant to a truſtee to the uſe of E. B. in fee. Death of Bellamy. *Third* avoidance. 2d Plea, that after the death of L. K. the mother (as firſt plea) deviſe by H. K. to his daughters as *tenants in common*. Death of H. K. leaving three daughters, L. M. and J. L. K. the mother, ſeiſed for life by ſettlement made on the marriage of J. C. with L. the daughter. Reverſion of the *third* part of advowſon belonging to L. the daughter, granted to truſtees to the uſe of L. the mother for life, remainder to J. C. for life, remainder to L. the daughter for life, remainder to truſtees to preſerve, &c. remainder to children, &c. Marriage took effect. Marriage between M. the daughter and E. B. the grandfather Death of Fothergill. *Uſurpation* of C. L. on L. the mother, by preſenting Romney. Death of L. the mother. *Reſignation* of Romney. *Uſurpation* of Geo. 2. by preſenting Romney, as firſt plea, only ſtating daughters *tenants in common*. 3d Plea, ſimilar, ſtating deſcent to daughters of H. K. in coparcenary, and that on Romney's *reſignation* J. C. E. B. the grandfather, and J K. did not agree, &c. but concludes with a *traverſe* that C. L. the father, deceaſed, was in his lifetime ſeiſed. 4th Plea, ſimilar to firſt as far as reſignation of Romney, but ſtates Romney's reſignation to be fraudulent, *with notice* to the coparceners. Goes on to the death. E. B. the grandfather, &c. being ſeiſed, becauſe the ſaid J. C. E. B. the grandfather, and E. B. the father, did not *in the lifetime* of the ſaid E. B. grandfather, and the ſaid J. C. E. R. A. R. and J. W. and E. B. the father did not, *after the death*, &c. agree. One C. L. *uſurped* on the ſaid J. C. to whom the right belonged, and preſented one D. Bellamy. Replication, that after the death of H. K. L. K. the mother granted the firſt preſentation to C. L the grandfather of C. L. in the declaration mentioned. Death of Fothergill. C. L. the grandfather, preſented Romney. Death of L. the mother. Fraudulent reſignation of Romney *without notice* to the coparceners. Uſurpation of Geo. 2. by preſenting Romney, by which fraudulent reſignation of R. the coparceners were prevented from agreeing to preſent. Fine levied by the coparceners *ſur conuſance de droit comeco*, &c. to the uſe of C. L. the grandfather, in fee. His death, and of Romney, *traverſes that on the reſignation of Romney it belonged to J. C. to preſent*, &c. To the 2d Plea, that after the death of H. K. L. the mother granted the next preſentation to C. L. the grandfather. Church vacant. C. L. the grandfather preſented Romney. Death of L. the mother. Coparcener ſeized. Fraudulent reſignation of Romney. Fine levied by all coparceners, *ſur conuſance*, &c. to the uſe of C. L. the grandfather in fee. His death. Deſcent to G. L the father. Church vacant by the death of Romney. C. L. the father preſented Bellamy; *traverſes the deviſe of H. K. to his daughters as tenants in common*. To the 3d Plea, *iſſue on the*

traverſe

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traverſe of C. L. the father being ſeiſed. General demurrer to the 4th Plea, and joinder. Rejoinder to the firſt replication, proteſting againſt the *ſufficiency* of the replication, denies that there was any record ſuppoſed to be levied by J. C. E. B. the grandfather, and M. his wife, and J. K. to the uſe of C. L. the grandfather, and of this the ſaid E. B. puts himſelf upon the record. To the 2d replication, takes iſſue on the traverſe of the deviſe of H. K. to the heirs male of his body, and for want of ſuch iſſue to his daughters. To the 3d replication, iſſue on the traverſe. Joinder in demurrer to the 4th Plea. Surrejoinder. Special demurrer to the rejoinder to firſt replication, for that plaintiffs traverſed a material and iſſuable point, and ſo tendered a material iſſue, but the defendant hath not taken iſſue upon that traverſe, or joined in iſſue with them thereupon, but hath paſſed by and taken no notice thereof, and hath denied another part of the ſaid replication, and hath attempted to put another point in iſſue; and that the ſaid rejoinder concludes with putting himſelf upon the record, which is *inconſiſtent* with the allegation that there is no ſuch record, whereas the ſaid defendant ought to have concluded his ſaid rejoinder by offering to verify the negative allegation. Iſſue joined on the rejoinder to the 2d replication.

Joinder in demurrer, - - - 1. H. Bl. Rep. 376 to 400

Verdict for plaintiff in *quare impedit*, - - Lill. Ent. 517

Writ to the biſhop to amove the preſent clerk, and to admit the clerk of the plaintiffs in *quare impedit*, - - *Ibid.* 531

Writ to biſhop after judgment to admit a clerk to enquire if the prebend be void or not, and the yearly value of it, - *Ibid.* 531

Advowſon of a church, 1. *Bro.* 295. 297. *Br. R.* 407. 2. *Bro.* 216. *Wi. Ent.* 625. 628. 2. *Lut.* 1078. *Bro. Vad.* 304. 336. 352. 357. 361. 367. *Ra.* 497. *Co. Ent.* 479. *Reg.* 30. Church of T. otherwiſe T. St. M. *Wi. Ent.* 766. 3. *Lev.* 12. Of St. M. *Ra.* 514. Of D. in M. *Wi. Ent.* 771. Of St. M. being *hoſpitalis*, *Ra.* 506. *Vet. Int.* 509. Of St. P. of O. *Ra.* 517. *Vet. Int.* 130. Two *parts* of a church, *Wi. Ent.* 715. *Ra.* 520. 5. *Co.* 102. 10. *Co.* 136. Third part, *Clif.* 602. *F. N. Br.* 139. 10. *Co.* 135. *Fourth* part, *Wi. Ent.* 628. *Clif.* 606. 2. *Lut.* 1123. Of *advowſon* of a church, or *moiety* of the advowſon, *Wi. Ent.* 750. *Bro. R.* 407. *Co. Ent.* 491. *Bro. Vad.* 323. *F. N. Br.* 33. 5. *Co.* 102. 10. *Co.* 135. Of a *vicarage*. 1. *Bro.* 299. 2. *Bro.* 222. 225. *Wi. Ent.* 623. 691. *Lev. Ent.* 144. *Clif.* 607. *Ra.* 522. 524. 530. *Co. Ent.* 520. *Reg.* 31. *Her.* 553. Of B. on the Green, *Wi. Ent.* 778. By *grant* made to plaintiff by defendant, *Ra.* 522. Of St. H. near the Mount of St. M. 18. *E.* 3. 10. Chapel, *Ra.* 502. Chauntry, *Ibid.* 499. *Reg.* 31. *F. N. Br.* 33. *Vet. Int.* 132. *Long.* 5. 56. Abbey, *Ra.* 496. *F. N. Br.* 33. *Vet. Int.* 71. Priory, *F. N. Br.* 33. In the marches of Wales, *Her.* 545. *Pl. Gen.* 474. Church *there*, *Ibid.* Deanery, *Reg. Jud.* 80. Archdeanry, *Wi. Ent.* 791. *Ra.* 531. 1. *And.* 241. Prebend, *Pl. Gen.* 482. *Ra.* 522. 528. 530. *Co. Ent* 507. *Reg.* 30. *Dig.* 164. 18. *E.* 3. 29. 24. *E.* 3. 34. 40. *E.* 3. 17. 41. *E.* 3 5. *R.* 2. 79. *Vet. Int.* 130. Canonry and prebend, *Ra.* 503. *Hoſpitali*, *Ra.* 531. *F. N. Br.* 33. Vicarage, *F. N. Br.* 34.

ADVOWSON APPENDANT, AND IN GROSS.

Of advowſon of a church belonging to a manor, *Bro. R.* 411. *Clif.* 602. 1. *Bro.* 297. 2. *Bro.* 201. *Wi. Ent.* 625. 633. 646. 723. *Pl. Gen.* 472. 469. 484. 473. 2. *Lut.* 1125. *Third* part of advowſon appurtenant to one manor, third to another, and remaining third to another, *Ibid.* 1091. Belonging to the moiety of a manor, *Pl. Gen.* 475. For *four* parts of an advowſon belonging to one manor, and fifth to another, *Wi. Ent.* 650. Fourth part of advowſon, that is to *preſent in the fourth* turn belonging to the fourth part of a manor, *Ibid.* 628. Advowſon belonging to one acre, *Ibid.* 766. Of a *vicarage* belonging to the manor, *Ibid.* 691. To the rectory, 2. *Bro.* 223. *Wi. Ent.* 623. 786. Advowſon in groſs, 1. *Bro.* 296. 299. 2. *Bro.* 220. *Wi. Ent.* 665. 696. 751. 769.

DECLARATIONS IN QUARE IMPEDIT—BY WHOM.

By the king generally, *Wi. Ent.* 751. *Reg.* 30. *F. N. Br.* 32. On a lapſe, *Wi. Ent* 707. *Bro. Vad.* 367. By wardſhip of land and heir, *Wi. Ent.* 765. *Reg.* 30 *F. N. Br.* 32. By force of the ſtatute againſt ſimony, *Wi. Ent.* 711. *Bro. R.* 409. 2. *Bro.* 220. 3. *Lev.* 12. &c. *Bro. Vad.* 304. By the king and *others*, *Reg.* 30. *F. N. Br.* 32. By biſhop, *Pl. Gen.* 474. By *huſband and wife*, *Wi. Ent.* 769. *Bro. Vad.* 361. *Ra.* 515. *Co. Ent.* 491. 5. *Co.* 57. *Vet. Int.* 27. By executor, *Wi. Ent.* 658. *Br.* 315. 1. *And.* 241. By *huſband and wife executrix*, *Co. Ent.* 477. *Wi. Ent.* 769. *Adminiſtratrix*, *Ibid.* 797. *Adminiſtrator de bonis non*, *Ibid.* 750. By chancellor, maſter, and ſcholars of univerſity, *Ibid.* 625. 771. Dean and chapter, *Ibid.* 623. 786. By grantees of the next avoidance, *Bro. R.* 407. Since the laſt ſettlement by *fine*, *Ibid.* 411. By chapter, *Ra.* 500. *Vet. Int.* 530. By tenant by the curteſy, and huſband and wife coheirs, *Co.* 518. By warden of a Hall, *Ra.* 499. By governors and truſtees of inheritance of the church, *Co.* 518.

By ward, *Ra.* 506. *Co. Ent.* 498. 500.

Declaration that a *certain perſon*, &c. &c. *Ra.* 495. &c. 504. *Co. Ent.* 477. 481. 490. 264. 467. 491. *Plo.* 423. That *whereas* a certain perſon, &c. *Ra.* 497. *Co. Ent.* 264. By one ſince ſeverance, *Her.* 545. When title accrued to plaintiff after the church void, *Vet. Int.* 72. *Ra. Ent.* 514.

KING SEISED.

The king of advowſon grants to T. who granted to J. in tail; deſcent to ſon within age, on whom the king ſeiſed after inquiſition and preſented twice, and afterwards granted livery to the heir, from whom it deſcended to another within age, on whom the king ſeiſed, *Co. Ent.* 493.

The king ſeiſed, granted the manor to D. to hold *in capite* that deſcended to three daughters within age, *Ibid.* 494.

BY THE KING ON LAPSE, AND BY STATUTE OF PLURALITIES.

By the king on lapſe, *Wi. Ent.* 709. *Co. Ent.* 520.

By the king on lapſe on ſtatute of pluralities. Plea, that by a clauſe in the ſtatute to *retain chaplains*, and that the baroneſs took defendant for her chaplain, and *traverſes the avoidance* of church by taking another benefice. Replication, that the baroneſs took *huſband*; *per quod* her power to have a chaplain ceaſed. Demurrer, *Co. Ent.* 512. Like plea without a traverſe. Replication, that baron, before *retaining* defendant, had the full number of chaplains. Rejoinder, that one of them was diſcharged before the retainer of defendant. Demurrer, *Co. Ent.* 514

Plea, that the rector of a moiety of the church took another moiety, and that the firſt moiety was void by ſtatute, and by *lapſe* came to Elizabeth, and from her to James, and *traverſes* that the church was void by death, *Co. Ent.* 492.

By king on a lapſe after an avoidance by the ſtatute of pluralities, and neglect of the patron and ordinary, &c. to preſent, *Bro. Vad.* 367. 2. *Lut.* 1083.

By

By the king on the ſtatute of pluralities, 2. *Lut.* 1078.

By the queen on 21. H. 8. 13. of pluralities. That M. E. biſhop of Lincoln, was ſeiſed of the advowſon of C. and collated G. G. and G. being qualified accepts H. and after accepts W. and that church was void, and continued ſo for two years, and ſo belonged, &c. 2. *Lut.* 1083.

FOR SIMONY.

By the king on ſtatute againſt ſimony, on an agreement to give his patron's friend yearly twenty pounds for life, 2. *Bro.* 220. 2. *Lut.* 1090.

Where the church becomes void by the ſtatute of pluralities, and afterwards by corrupt and ſimoniacal agreement between patron and incumbent the church became again void, *per quod* for this turn it belonged to the king to preſent, 2. *Bro.* 216. On agreement to give the patron fifty pounds for next avoidance, *Wi. Ent.* 711. To give patrons ſiſter fifty-three pounds, 3. *Lev.* 12. Patron's mother two hundred and fifty pounds, 2. *Lut.* 1085. To give patron three hundred pounds, and to receive the tithes for the next year, *Bro. Vad.* 304. 332. 2. *Inſt. Cl.* 413.

By the king againſt the biſhop, patron, and incumbent, upon a ſimoniacal contract, whereby the incumbent gave the patron one hundred pounds and two coach horſes of fifty pounds price to be preſented to the living. *Bro. Vad.* 373. On a *ſimoniacal* contract, whereby the incumbent was to give the guardian of the patron two hundred and fifty pounds, *Clif.* 609. 625.

By the king on ſtatute of ſimony, on agreement to give the patron's friend a bond to demiſe to him the advowſon from three years to three years during life. Plea, that the patron *pure*, &c. preſented clerk, and traverſes ſimony, *Co. Ent.* 516.

Plea by the biſhop, that the grantee of the next avoidance for money promiſed and afterwards paid, preſented the laſt incumbent, and the king preſented by lapſe. Demurrer, *Co. Ent.* 475.

Plaintiff makes title before the laſt preſentation by father ſeiſed in fee, *Ra.* 528. That J. ſeiſed of a manor, *ad quod*, &c. levied a fine, &c. and does not alledge preſentation, *Ra.* 521. *Her* 557.

Declaration by attorney general after default upon a *diſtringas* upon the ſtatute of ſimony againſt patron and incumbent and the biſhop in L. in the *ſimul cum*, *Bro. Vad.* 304. After *diſtringas* and default by defendant, attorney-general ſets forth the king's title, *Ibid.* 367.

Declaration upon the act of union of pariſhes in London, *Lev. Ent.* 141, &c. Declaration founded on the ſtatute 12. Car. 2. *Clif.* 604. Againſt the biſhop of L. and biſhop of A. commiſſioners to exerciſe the juriſdiction and office of biſhop in and over the dioceſe of N. *Bro. Vad.* 620.

That defendants, together with E. B. T. D. and R. G. permitted J. P. knight and others *ad reſpondendum* notary public to preſent, &c. *Clif.* 606.

By infant *mulier* by *prochein ami*, *Lev. Ent.* 138.

AGAINST WHOM.

Declaration againſt the *biſhop* only, *Wi. Ent* 663. 746. *Bro. Vad.* 344. 2. *Mod. Int.* 290. Patron only, *Aſh.* 377. 2. *Inſt. Cl.* 410. Biſhop and patron, *Bro. Vad.* 372. Clerk only, and where biſhop died before the day in bank, 2. *Bro.* 201. *Bro. R.* 409. 2. *Lut.* 1086. Biſhop and clerk, 3. *Lev.* 12. *Bro. Vad.* 323. 352. 376. *Lev. Ent.* 141. 144. 2. *Inſt. Cl.* 411. 2. *Mo. Int.* 289. 2. *Lut.* 1083. 1094. Biſhop and dean and chapter only, *Ra.* 497. Biſhop, chapter, and patron, *Aſh.* 378. Biſhop, vicar general, and patron, *Ra.* 528. Chancellor, maſters, and ſcholars of univerſity of Oxford, and clerk, *Wi. Ent.* 373. The wardens of the ſpiritualities of archbiſhoprick of York, 1. *Bro.* 297. Warden and vicars of the college of vicars *in choro*, *Ra.* 532. The chapter only, *Wi. Ent.* 700. Biſhop, chapter, and clerk. 2. *Mo. Ent.* 291. Patron and clerk, *Bro. Vad.* 304. 336. Biſhop, patron, and clerk, *Bro. Vad.* 357. 361. 373. *Lev. Ent.* 138. *Clif.* 602. 604. 606. &c. *Bro. Met.* 337. 2. *Lut.* 1078. 1090. 1118. 1125.

Againſt

Againſt *one*, that he, together with others, *permittat*, &c. *Vet. Int.* 26. *Her.* 544. *Ra.* 500. 503. 507. 511. &c. 515. 520. 522. 528. *Co. Ent.* 490. 505. 507. *Her.* 548. 551. An abbot without his name of baptiſm, *Ra.* 497. Declaration, with *in miſericordia* for many defaults, *Ra.* 497. 504. *Wi. Ent.* 601. 742. 752. 765. 777. *Bro. Vad.* 304. Againſt four, three of whom were *in miſericordia*, 509. *Co. Ent.* 477. Againſt two, where one is *in miſericordia* on a *diſtringas*, *Wi. Ent.* 723. Againſt a widow, where huſband died after the laſt continuance, *Her.* 556. The chancellor, maſter, and ſcholars, academy of Cambridge, 2. *Lut.* 1100.

DECLARATIONS BY THE KING ONLY, WHERE KING SEISED.

King Henry 7. ſeiſed of advowſon *in groſs* in right of the dutchy of Lancaſter, preſented. Deſcent to Jac. to whom it now belongs to preſent to the vacancy, *Wi. Ent.* 751. *Ra.* 528. *Vet. Int.* 26. *Co. Ent.* 514. 1. *Ra. Ent.* 528. *Vet. Int.* 26.

By the king, by reaſon of wardſhip of land and heir, where T. ſeiſed of the manor, *ad quod*, &c. held *in capite* preſented, and afterwards died, and the manor deſcended to the ſon within age, which the king ſeiſed after inquiſition found. Church vacant by *deprivation* of the clerk for not reading articles of religion, *per quod* it belonged to the king to preſent, *Ibid* 765.

By the king, againſt the biſhops of London and Lancaſter, ſets forth, that the biſhop of London, ſeiſed of the advowſon *in groſs* of ſaint M. collates L. who was biſhop of Exon, whereby it pertained to the king to preſent, who preſented D. L. who was created biſhop of Saint A. and ſo it belongs to the king to preſent, *Lev. Ent.* 144.

King Richard 2. ſeiſed of an advowſon, preſented, and after *ſe dimiſit de regimine*, *per quod* the advowſon came to Henry 4. and deſcended to Henry 5. who preſented and deſcended to Henry 6. who ought to preſent, *Ra.* 528.

WHERE ABBOT SEISED.

Abbot, ſeiſed of an advowſon that came to Henry 8. by ſtatute of diſſolution, and deſcended to Edward 6. who granted it to the duke of Somerſet, by whoſe attainder it came to the ſame king, and deſcended to Elizabeth, who ought to preſent, *Co. Ent.* 421.

Abbot, ſeiſed of an advowſon, preſented. Preſentation by uſurpation. Surrender of the monaſtery to Henry 8. and by ſtatute of diſſolution it deſcended to Elizabeth. Plea, that the abbot demiſed the advowſon for years, and another abbot deviſed for years in reverſion to A. who deviſed to B. who aſſigned to defendant, and traverſes uſurpation, *Co. Ent.* 509. Abbot, ſeiſed of advowſon in groſs, preſented and died. His ſucceſſor granted next advowſon to T. who is outlawed in account, *Ra.* 430. *Vet. Int.* 110.

BISHOP SEISED—PRIOR SEISED.

Biſhop, ſeiſed of advowſon of prebend, collated to it, and afterwards the temporalities of the biſhop came to the king by *tranſlation* of the biſhop, and the right to preſent is now in the king, *Ra.* 530. 21. E. 3. 5.

Archbiſhop, ſeiſed of advowſon of the prebend, and afterwards the pope *provided* to it, which was afterwards vacant till the temporalities of the archbiſhoprick came to the king, *Ra.* 530.

Archbiſhop, ſeiſed of the advowſon of a prebend, collated to it, and afterwards it became vacant by the election of the prebendary to be dean, *per quod* the biſhop collated and died, and another was elected, and prebend became vacant till the temporalities of the biſhop came to the king by tranſlation, *Vet. Int.* 130.

Of the archdeacon, where biſhop died and another conſecrated, and afterwards the archdeaconry vacant, and the temporalities of the biſhop are in the king's hands, *Ra.* 531. *Vet. Int.* 132.

Prior,

Prior ſeiſed of advowſon preſented, and church void till the temporalities of the priory, which is the *cella* of the abbey, come to the king's hands, *Ra.* 530. *Vet. Int.* 132.

Of the priory of an alien whoſe temporalities come into the king's hands by reaſon of a war with France, *Ra.* 530.

Biſhop ſeiſed of an advowſon *collated* to it, and church vacant till the temporalities of the biſhoprick by the death of the biſhop come to the king's hands, *Ra.* 531.

SEISIN OF OTHERS.

By the king, by reaſon of wardſhip of land and heir, where T. ſeiſed of two manors and one advowſon *in groſs* held in *capite*, preſented and afterwards died, and the manors and advowſon deſcended to his ſon within age, and the king ſeiſed them, *Ra.* 528.

P. ſeiſed of a manor and advowſon held in *capite*, gave to J. in fee. who granted in tail to huſband and wife, from whom it deſcended to B. who preſented, and from him by divers deſcents came to W. within age, *Ra.* 529.

W. ſeiſed of an advowſon preſented, which deſcended to E. and from him to J. within age; and in the ward of the king, for that E. held the lands *in capite*. *Plea*, that E. held nothing of the king on the day he died. And *writ* to the biſhop ſays, that E. held *lands* of defendant by knight ſervice, who ſeiſed them in the minority of the heir. Replication, that he held of the king, *Ra.* 529.

E. ſeiſed of a manor *ad quod*, &c. he preſented and enfeoffed S. who died ſeiſed. Manor given to E. 6. by act of parliament, from whom it deſcended to Mary. W. granted to E. *in capite*. E. deviſed two parts, and third part deſcended to the ſon within age, and after inquiſition queen Mary, and deſcent to Elizabeth, *Her.* 551.

Plea, that M. preſented to the church whoſe advowſon he held of H. as groſs, and not of the king *in capite* as belonging to the manor, *Hi.* 4. *E.* 3. 3.

W. ſeiſed of ſeveral manors, lands, and advowſon, part held *in capite*, preſented after his death; lands and advowſon were aſſigned to widow for dower, who preſented. Deſcent from R. and from him to H. and from him to two couſins within age, Plea, that the advowſon is belonging to the manor held of the king as of an honour and not from the crown. And another manor held *in ſocage*, and traverſes that predeceſſors held any thing of the king as of his crown, that the moiety of the manor and advowſon was aſſigned, and that the mother of the heir within age ſued a writ *de dum clamavit extremum*, and inquiſition thereon. That the manors, &c. were held as above, and delivery thereon out of chancery. And defendant, father of the other heir within age, preſented in the name of the heir before ſeiſure of the manors into the king's hands, and defendant ſued out *like* writ, and inquiſition thereon found *tenure in ſocage*, *Ra.* 529.

A. ſeiſed of lands and advowſon held *in capite* preſented, and afterwards aliened the ſame to *prior*, king's licence not obtained, *per quod* it belongs now to the king to preſent to the vacancy, *Ra.* 530.

GRANTEES OF THE KING.

King Edw. 6. ſeiſed of a manor *ad quod*, &c. *granted* manor of J. to lord A. in tail, deſcent to G. within age. Queen Elizabeth ſeiſed after inquiſition, and preſented, and afterwards granted livery to the heir, from whom deſcent to plaintiff. Biſhop ſays nothing, *Wi. Ent.* 748.

Queen Elizabeth ſeiſed of advowſon *in groſs* preſented and *granted* to E. in fee, who granted to Z. who granted to B. who granted next avoidance to plaintiff, *W. Ent.* 778.

Abbot, ſeiſed of rectory, to which advowſon of a vicarage was appendant, demiſed to J. and wife for eighty three years. Rectory by ſurrender of the abbot, and ſtatute of diſſolutions came to H. 8. who *granted* reverſion to plaintiff in fee. J. died,

died, and wife ſurvived who preſented, and afterwards made his will, and H. executor, who ſurrendered the term to plaintiff. By the dean and chapter.

Queen Elizabeth, ſeiſed of advowſon *in groſs*, preſented W. P. W. accepts another benefice, and thereby the church became void by the ſtatute of pluralities, and the queen preſented the ſaid W. P. and before his *admiſſion granted* the advowſon to Sir C. H. in fee. Sir C. grants to A. S. in fee. W. P. is *inducted*. Sir W. S. dies ſeiſed. Advowſon deſcends to W. S. his ſon, who grants to H. lord D. the next avoidance, who grants to plaintiff. W. P. incumbent dies, and it belongs to plaintiff to preſent, *Bro. Vad.* 336.

Declaration for vicarage *in groſs* that came to the king by diſſolution, and *granted* to plaintiff by letters patent. 2. *Inſt. Cl.* 410.

By the heir of a coparcener by deſcent on the king's *grant*, 2. *Lut.* 1118.

Charles 1. ſeiſed of manor to which advowſon was *appendant*, *granted* to his queen, ſhe preſented. Manor deſcended to Charles 2. who granted to plaintiff, to whom it belongs to preſent to the vacancy, *Pl. Gen.* 469.

Edward 6. ſeiſed of manor and advowſon *appurtenant*, granted next avoidance to E. and R. to preſent N. They preſented, and afterwards granted advowſon to duke of S. in fee, who granted to plaintiff, *Pl. Gen.* 472.

Prior ſeiſed of advowſon *in groſs* preſent, advowſon come to Henry 8. by ſtatute of diſſolutions, who granted to plaintiff for life, *Pl. Gen.* 481.

The king granted to T. duke of N. the goods of felons, fugitives, and outlaws within the rape of B. The duke of N. demiſed to T. who made plaintiff executor. W. ſeiſed of the manor to which, &c. within the rape, granted next avoidance to C. who is outlawed on judgment in debt. Church void. Plaintiff, as executor of J. claims to preſent, *Wi. Ent.* 658.

Henry 8. ſeiſed of advowſon in groſs, granted next avoidance to duke of S. who preſented. Deſcent to Jac. who granted in fee to M. who granted to P. and by him to plaintiff, *Wi. Ent.* 665.

J. ſeiſed of manor to which, &c. preſented, and is *attainted* of treaſon by which the manor to which, &c. came to Charles 2. grant by him to lord B. by him to T. by him to plaintiff, and by 12. Charles 2. for confirmation and reſtoration of the clergy, every clergyman having two benefices ſhould hold one only at his election. The incumbent had then two (B. and K.); made election of K. and church of B. became void, and belongs to plaintiff to preſent, *Ibid.* 722.

Abbot, ſeiſed of advowſon in groſs, granted next advowſon to R. and it came to Henry 8. by ſtatute of diſſolutions. R. preſented. Deſcent to Edward 6. Grant by him to E. lord C. and by ſeveral grants came to plaintiff, and by reſignation of laſt incumbent it belongs to plaintiff to preſent, *Ibid.* 726. *Co. Ent.* 508.

R. ſeiſed of advowſon in groſs preſented. Deſcent to W. the ſon, who became popiſh recuſant by inquiſition on the act of 3. Jac. 10. ſeiſed into his hand (*inter alios*) the advowſon granted to C. *Ibid.*

Edward 6. ſeiſed of advowſon in groſs preſented. Deſcent to queen Mary. Grant by her to former plaintiff in fee, deſcent to preſent plaintiff, *Ra.* 497. *Plo.* 493.

Henry 6. ſeiſed of a priory abroad whereof advowſon was parcel, preſented and was depoſed. Grant by Edward 4. to chapter in fee, *Ra.* 500. *Vet. Int.* 130.

The king, ſeiſed of advowſon, preſented and granted next avoidance to plaintiff, *Ra.* 523.

Abbot, ſeiſed of manor to which, &c. preſented and ſurrendered to Henry 8. Grant by him to plaintiff in fee, *Ra.* 525.

Henry 8. ſeiſed of advowſon, preſented advowſon, deſcent to queen Elizabeth. Grant by her in fee to J. Grant by him to plaintiff, 531.

Abbot, ſeiſed of advowſon, preſented and granted next avoidance. Advowſon came to Henry 8. by ſtatute of diſſolutions. Deſcent to Edward 6. Grant by him to E. By him to plaintiff, *Co. Ent.* 508.

DECLARATION IN QUARE IMPEDIT UPON TITLE.

W. lord Petre ſeiſed in fee of the manor to which, &c. preſented B. Deſcent to J. brother and heir of W. lord Petre. Deſcent to T. his brother and heir and plaintiff, and being ſeiſed and church vacant by death of B. it belongs to plaintiff to preſent, 2. *Lut.* 1100.

Plaintiff ſeiſed of advowſon of vicarage in groſs preſented, and it belongs now to him to preſent to the vacancy, 2. *Bro.* 225. *Wi. Ent.* 748. Of advowſon, *Wi. Ent.* 696. 703. 2. *Lut. Ent.* 1094. In groſs, *Her.* 555. *Ra.* 508. 511.

The grandfather ſeiſed of a manor to which, &c. advowſon of vicarage was appendant preſented, and the manor deſcended to plaintiff as the ſon and the eldeſt ſon of his grandfather, *Wi. Ent.* 691. *Hob.* 327.

The grandfather ſeiſed of manor to which, &c. and covenants to ſtand ſeiſed in tail. Deſcent to plaintiff heir in tail as ſon of the ſon to return, it belongs, &c. *Wi. Ent.* 782.

By tenant in tail of a moiety of an advowſon in groſs upon avoidance by the death of the laſt incumbent, *Bro. Vad.* 323.

J. W. eſquire, ſeiſed of advowſon in groſs of the vicarage of O. in fee, preſents J. W. clerk, and afterwards J. W. clerk, levied a fine to the uſe of J. O. J. R. and F. C. and their heirs in fee, who bargained and ſold to plaintiff in fee. W. C. clerk, accepts another benefice, and the vicarage being of the yearly value of eight pounds became void by act of pluralities, and therefore belonged to plaintiff to preſent, *Bro. Vad.* 344.

H. S. eſquire, being ſeiſed in fee of the *fourth* part of an advowſon in groſs of the church of R. grants to H. S. gentleman, and R. H. to the uſe of himſelf and G. his wife for lives. Remainder in tail to him and his heirs. H. S. had iſſue. F. S. who was ſeiſed in tail. H. S. and G. his wife die. F. S. being ſeiſed of *fourth* part, and ſir R. C. and G. N. of the other *three* parts. Fine levied of the other *three* parts to the uſe of F. S. in fee. F. S. ſo ſeiſed preſented F. S. clerk, and afterwards granted next preſentation to plaintiff, and therefore, &c. *Bro. Vad.* 352.

Sir T. M. ſeiſed in fee of advowſon in *groſs* of the church of W. the church became void by reſignation of incumbent, and continued for eighteen months and upwards, whereupon the queen preſented by *lapſe* R. P. Afterwards ſir T. M. granted to ſir A. E. H. W. and T. H. to the uſe of the plaintiff and E. his wife, and his heirs by her. Remainder to the heirs of his body. Remainder to his right heirs in fee, by virtue of ſuch grant and ſtatute of uſes. Plaintiff was ſeiſed in tail, and church void by the death of R. P. plaintiff ought to preſent, *Bro. Vad.* 357.

J. ſeiſed of rectory to which advowſon of vicarage belonged, church full, granted next avoidance to T. who preſented J. enfeoffed S. of the rectory. Grant by him to next avoidance of W. by him to E. who died *inteſtate*. *Adminiſtrator* granted to M. who granted to plaintiff, 2. *Bro.* 223.

Prior ſeiſed of a warren in groſs preſented, and granted next preſentation to C. and the next preſentation after to D. and afterwards granted the advowſon of church of W. for ninety-nine years. C. and D. ſeverally preſent according to their reſpective grant. W. makes A. executor, who preſented. A makes S. his wife executrix, who took T. to huſband, and he in right of his wife preſented. The wife ſurvived, and granted to E. and he granted next avoidance to plaintiff, *Ibid.* 223.

Biſhop, ſeiſed of the advowſon of vicarage in groſs in the marches of Wales, preſented, and it now belongs to plaintiff his ſucceſſor to preſent to the vacancy, *Pl. Gen.* 474. *Dean and chapter* ſeiſed of rectory to which advowſon of the vicarage belongs, preſented, and it now belongs to them to preſent to the vacancy, *Wi. Ent.* 623.

Biſhop, ſeiſed of advowſon of *prebend, collated* to it, and granted next avoidance to plaintiff, *Pl. Gen.* 482. *Ra.* 522.

R. ſeiſed

R. ſeiſed of a manor *to which, &c.* preſented. Deſcent to W. his ſon, who was *popiſh recuſant*, and univerſity of Oxford claims to have preſentation by 3. Jac. *Wi. Ent.* 625. 771. *Wi. Rep.* 11.

W. ſeiſed of a *prebend* to which advowſon of vicarage belonged (being vacant by deprivation) ſuffered a *lapſe*, and chapter having ordinary juriſdiction collated the clerk. W. died, and another prebendary inducted, and demiſed to plaintiff for three lives, to whom it belonged to preſent. Plea, that he did not demiſe. Special verdict. Judgment for defendant, *Wi. Ent.* 700. *Hob.* 303.

Biſhop, ſeiſed of advowſon of archdeaconry, collated to it and died. Another is collated, who in the vacancy of the archdeaconry granted next avoidance thereof to W. who made his executor, and the queen preſented by *lapſe*, and by ſeveral grants the next preſentation came to plaintiff, to whom, &c. *Wi. Ent.* 791.

J. ſeiſed of a manor, to which, &c. covenanted to ſtand ſeiſed to his own uſe and his wife's for life. Remainder in tail, and preſented the wife. Tenant for life preſented R. Iſſue in tail levied a fine, and demiſed advowſon to T. and F. for twenty-one years to the uſe of R. his wife and died. T. and F. aſſign their intereſt in the term to M. who granted the reſidue of the term to plaintiff to whom, &c. 2. *Bro.* 201.

R. ſeiſed of manor, to which, &c. preſented (and granted next advowſon) to plaintiff, *Pl. Gen.* 484. And it now belongs to plaintiff to preſent to the vacancy, *Co. Ent.* 407. *Ra.* 503.

T. S. ſeiſed of advowſon in *groſs*, preſented B. and afterwards deviſed to plaintiff C. and church being void by death of B. continued ſo upwards of ſix months. Lord biſhop as ordinary *collated* by *lapſe* R. S. and afterwards plaintiff intermarried. Church void by death of R. S. whereupon plaintiffs ought to preſent, *Bro. Vad.* 361.

R. W. ſenior, ſeiſed of advowſon in *groſs*, preſented R. C. who died, and the right of preſentation devolved by *lapſe* to the king, who preſented D. A. R. W. dies ſeiſed, and deſcent to plaintiff as couſin and heir. D. A. dies, plaintiff ought to preſent, *Bro. Vad.* 370.

Plaintiff, ſeiſed of advowſon in *groſs*, preſented one R. S. his clerk, who died, and biſhop and the other defendant T. *hinder* him from preſenting another clerk, *Ibid.* 376. *Mo. Ent.* 289.

Infant mulier by next friend declares that W. H. ſeiſed of advowſon in *groſs*, preſented E. H. clerk. W. H. died and deſcent to ſaid E. H. the incumbent as ſon and heir. Death of E. H. Church vacant. Deſcent to plaintiff as couſin and heir of E. &c. *Lev. Ent.* 138.

E. R. ſeiſed in fee of manor of O. to which, &c. by his will deviſed it to M. his wife for life. Remainder to C. R. in fee. Incumbent died. He preſented C. R. and dies. Death of C. R. Church void. Deſcent of the manor to C. R. his ſon and heir. Biſhop by *lapſe* collates to ſaid C. R. the ſon. The ſaid C. R. by leaſe and releaſe conveys the manor to one M. in fee. M. conveys to plaintiff in in fee. Church void by death of C. the ſon, *per quod*, &c. 2. *Lut.* 1125.

By the *grantee* of the next avoidance of advowſon of vicarage in groſs, 1. *Bro.* 299. 2. *Inſt. Cl.* 412. After partition, *Co. Ent.* 490. Of advowſon in groſs, *Wi. Ent.* 633. 742. *Clif.* 614. By ſurviving grantee, *Ibid.* 605. 2. *Mo. Ent.* 288. *Bro. Met.* 337. &c. Like by *aſſignee*, and counts that E. ſeiſed of a manor to which, &c. granted next avoidance to R. and afterwards ſold the manor, &c. M. enfeoffed O. who enfeoffed G. who granted next avoidance to B. Church void. R. preſented. Deſcent of manor to defendant the ſon of G. adminiſtrator of B. Aſſigns next avoidance to plaintiff, to whom, &c. *Wi. Ent.* 646. *Aſſignment* of *grant* of next avoidance made by a prebendary who was ſeiſed of advowſon of the church in right of his prebend, *Ibid.* 743. By *aſſignee* of next avoidance, *Co. Ent.* 481.

By *huſband and wife*, *executrix* of grantee of next avoidance in turn of coheireſs, *Co. Ent.* 477.

By grantee of *deviſee* of next avoidance, where A. ſeiſed of one acre in T. to which advowſon of the church was appendant, granted next avoidance to W. who preſented his clerk, who was created a biſhop, and the king granted biſhop licence to retain *in commendam* for ſix years. A. bequeathed next avoidance to J. who granted to plaintiff. The king after ſix years *by prerogative* preſented, and church now belongs to plaintiff to preſent, *Wi. Ent.* 766.

By *ſurviving* leſſee of advowſon of vicarage on demiſe for ſixty years determinable on one life, *Tid.* 752.

By *huſband* and *wife*, deviſee of advowſon *in groſs* in fee, *Tho.* 769. *Wi. Rep.* 73.

W. ſeiſed of a manor, to which, &c. granted next avoidance to G. who preſented, and afterwards demiſed the manor, with the *appurtenances*, to plaintiff for years, *to whom*, &c. *Wi. Ent.* 774.

By adminiſtrator, where the grandfather of the inteſtate was ſeiſed of the advowſon *in groſs*. Deſcent to R. within age, on whom W. *uſurped*. R. died, and the right of advowſon deſcended to A. who whilſt church was void died inteſtate, and adminiſtration within ſix months after the death of the incumbent was committed to plaintiffs wife of A. *per quod*, &c. *Wi. Ent.* 797. Judgment for plaintiff, *Wi. Rep.* 35. 39.

R. L. gentleman, ſeiſed of manor of P. to which advowſon of P. belonged, levied a fine to uſe of R. L. his ſon, and M. his wife, and heir of the ſaid R. L. the ſon preſented E. L. his clerk, and died. And ſaid M. ſurvived him, and was ſeiſed for life, and reverſion of ſaid manor to which, &c. deſcended to M. L. ſpinſter, daughter and heir of R. L. ſon. The widow M. took to huſband C. E. and they C and M. granted the next avoidance to T. N. who preſented B. A. and M. L. the daughter took to huſband T. C. clerk, M. the wife of C. died. T. C. and wife entered into the manor *ad quod*, &c. and granted to plaintiff next avoidance. Church void, *per quod*, &c. with averment of lives of grantees, *Br. R.* 411.

A. ſeiſed of manor, to which, &c. and of another manor, deſcent to three daughters within age, and in wardſhip of the king. They took huſbands, and ſeverally ſued out livery, two died, and two of plaintiff's are *tenant by the curteſy*, *Br. R.* 518.

T. ſeiſed of manor, to which, &c. held *in capite* by the king's licence gave in tail to R. Deſcent to J. who preſented. Deſcent to H. within age, after inquiſition in wardſhip of the king who granted wardſhip to E. who preſented. H. died without iſſue. Manor deſcended to his ſiſter, to whom granted livery, *Her.* 557.

C. ſeiſed of a manor, to which, &c. held *in capite* king's licence obtained gave it to *two* in fee, who gave in tail to huſband and wife, from whom it deſcended to L. and from him to plaintiff, *Ro.* 532. T. ſeiſed, &c. gave in tail, after many deſcents came to plaintiff, *Ibid.* J. ſeiſed of advowſon in *groſs*, levied a fine with *renaer* in tail, and deſcent to plaintiff, *Ibid.*

A. ſeiſed of manor, to which, &c. levied a fine to R. in tail. Deſcent to four daughters, who make partition thereof, and of other lands. Manor allotted to M. from her deſcent to H. from him to M. Church vacant. Deſcent to three plaintiffs, coheireſſes, *Ra.* 511. *Vet. Int.* 72.

Huſband and wife, ſeiſed of manor to which. &c. in right of the wife, preſent. Manor deſcends to *three* daughters, they make partition of the manor; and advowſon remains in *common*, part of *one* ſiſter deſcended to *two* others, *one* of whom took huſband; *one* plaintiff who is *tenant by the curteſy*, to whom and the other plaintiff the ſon of the other ſiſter it belongs to preſent, *Ra.* 514.

J. ſeiſed of advowſon. deſcent to T. the uncle, from him to A. and E. daughters; part of A. deſcends to J. and from him to one plaintiff, and part of E. to the other plaintiff. *Ra.* 514.

R. ſeiſed of the manor, to which, &c. preſented, and afterwards committed a felony and was hung, *per quod* plaintiff's father, of whom the manor was held, entered by *eſcheat* which deſcended to plaintiff, *Ra.* 500. *Vet. Int.* 132.

H. ſeiſed

H. ſeiſed of the manor, to which, &c. Deſcent to ſon within age. The king preſented by wardſhip. Son when of full age enfeoffed plaintiff of three acres with the advowſon, *Ra.* 500.

R ſeiſed of manor to which, &c. preſented and gave the manor to J. and E. who enfeoffed M. Deſcent to plaintiff, and biſhop collated by *lapſe*, *Ra.* 501. *Vet. Int.* 129. J. ſeiſed, &c. preſented. Manor deſcended to D. who enfeoffed H. who enfeoffed plaintiff. *Ra.* 504.

W. ſeiſed, &c preſented and enfeoffed R. who demiſed to plaintiff for life, who preſented, and church again vacant, *Ra.* 513. *Vet. Int.* 27. H. ſeiſed, &c. preſented and demiſed for life, who demiſed for years determinable on his own life, reſerving the next avoidance and rent with clauſe of re-entry for rent arrear. Plaintiff preſented and re-entered for rent unpaid. J. diſſeiſed plaintiff and preſented, and church again void, *Ra.* 513

N. ſeiſed of an advowſon granted to plaintiff to his own uſe for life. Remainder to J. in tail, and if N. ſhould die, A. being within age, then plaintiff to ſtand ſeiſed till A. ſhould come of age. N. died, A. within age *Co. Ent.* 489.

By two tenants by the curteſy of an advowſon in groſs they and their wives ſeiſed preſented, and now it belongs to them to preſent by death, *Her.* 544. Where wife's father preſented, and church void, 557.

R. P. ſenior ſeiſed in groſs preſented R. P. junior, who was admitted *by divers perſons taking upon themſelves the authority, &c.* R. P. ſenior granted the advowſon of the church to R. P junior, and then recites 12 Charles 2. to continue in poſſeſſion ſaving the right of patronage on the next avoidance, &c. R. P. junior bequeathed the advowſon to F. his wife for life and died, by whoſe death the church became and is void, and it belongs to plaintiff, wife of R. P. junior, to preſent, *Clif.* 604.

Declaration on the title of the count of Arundel after many deſcents after *uſurpation* under the authority of the pretended parliament before Charles 2. *Ibid.* 619.

That plaintiff's father being ſeiſed preſented his clerk, by whoſe death the church became void and remained ſo for eight months. A *lapſe* to the king who preſents. Father dies ſeiſed, &c. Advowſon deſcends to plaintiff. Avoidance by the death of the king's incumbent, and it belongs to plaintiff to preſent, 2. *Mo. Int.* 290.

Againſt the biſhop, &c. upon the death of incumbent of grantee of next avoidance, &c. Firſt grantee grants over death of patron's incumbent. Grantee preſents. Patron dies. Deſcent to his heirs who alien in fee to plaintiff, 2. *Mo. Int.* 292.

Plaintiff ſeiſed of a *rectory* to which advowſon of vicarage belongs, *Co. Ent.* 520. Of a *manor* with advowſon *appendant* preſented and afterwards enfeoffed plaintiff, *Ra.* 504. *Vet. Int.* 10. Appendant to *fourth* part of a manor, *Ra.* 504. To *moiety* of a manor, *Ibid. Vet. Int.* 110.

By abbot, where predeceſſor ſeiſed of advowſon *in groſs*, preſented and afterwards died, and it now belongs to plaintiff his ſucceſſor to preſent, *Ra.* 524. *Aſſo.* 347. By *prior* advowſon appendant to an acre of land. *Ra.* 512. *Vet. Int.* 73.

Plaintiff, ſeiſed of advowſon of *two* parts of a church, preſented, and now it belongs to him to preſent to the ſame two parts vacant, *Ra. Ent.* 520.

Plaintiff's father, ſeiſed of a manor with advowſon appendant, preſented, and manor deſcended to plaintiff, *Ra.* 496. *Co. Ent.* 478. *Vet. Int.* 27. 71. Of an advowſon in *groſs*, *Ra.* 504.

Abbot ſeiſed of advowſon *in groſs* preſented, and the right of advowſon deſcended to his father, and from him to plaintiff, 497.

C. having wardſhip of the manor *ad quod, &c. durante minoritate* of plaintiff's father, preſented, and the right of preſentation together with the manor deſcended to plaintiff, *Ra.* 503.

R. ſeiſed of the manor of P. with advowſon appendant, preſented, and the manor deſcended to W. and from him to J. within age, and in wardſhip of the king having the manor of L. of which the manor of P. is held. The king preſented. Manor of P. deſcended to plaintiff, *Ra.* 504.

J. ſeiſed

J. ſeiſed of advowſon *in groſs* that deſcended to E. who took to huſband M. who preſented in right of his wife. Deſcent to D. within age and in wardſhip of the king. D. died within age, and deſcent to plaintiff within age, to whom the king granted *livery*, *Ra.* 506.

W. ſeiſed of manor to which, &c. levied a fine to uſes in tail before the ſtatute, which after the ſtatute remained to B. W. levied a fine to the former plaintiff who died ſeiſed thereof, and after inquiſition was found in wardſhip of queen Mary and Elizabeth who preſented *per ceſſionem*, and plaintiff ſued out his *livery*, *Co. Ent.* 499.

Abbot ſeiſed granted next avoidance and ſurrendered to Henry 8 from whom it deſcended to Edward 6. Grant by him to B. by him to C. and deſcent to plaintiff, *Co. Ent.* 503.

T. ſeiſed of the rectory to which the advowſon of vicarage belonged preſented and levied a fine to J. and D. who granted to plaintiff and one M. who releaſed to plaintiff, the king preſented by *lapſe*, and now it belongs to plaintiff to preſent, *Her.* 553.

By biſhop, where predeceſſor, ſeiſed of advowſon collated, and afterwards was tranſlated, and plaintiff conſecrated a biſhop, *Ra.* 501. *Vet. Int.* 72.

By prior, where predeceſſor ſeiſed of advowſon in marſhes of Wales preſented, *Her.* 545. Prior defendant ſeiſed of advowſon of vicarage in groſs preſented and granted next avoidance to plaintiff, *Vet. Int.* 26. Abbot, ſeiſed of advowſon of vicarage in groſs, preſented, and defendant, his ſucceſſor, granted plaintiff nomination to the vicarage on the next avoidance, *Ra.* 520. *Vet. Ent.* 130.

Of a church, being a hoſpital incorporated of a maſter and convent, and when vacant, the brethren were uſed to requeſt licence of patron to elect a maſter, and be preſented to the biſhop by the patron, and plaintiff's father ſeiſed of the advowſon preſented the laſt maſter, and the advowſon deſcended to plaintiff, *Ra.* 506. *Vet. Int.* 209.

Of a chauntry, where plaintiff ſeiſed of an advowſon, viz. to preſent ſix chaplains to prior, and he to inſtitute and induct one of them, *Ra.* 499. *Vet. Int.* 132.

By warden of a hall, where L. ſeiſed of an acre of land with advowſon that deſcended to J. who granted to C. with a warranty, and levied a fine thereof. C. by royal licence granted to warden, and warden and ſcholars, *Ra.* 499.

Biſhop, ſeiſed of advowſon of prebend, collated and granted next avoidance to plaintiff, 522.

Abbot, ſeiſed of ſeveral portions in church preſented, and theſe were afterwards united. Succeſſor granted next avoidance to plaintiff, 522. Seiſed of advowſon of vicarage in groſs preſented, and granted next avoidance to plaintiff, *Ibid.* 522. 525. *Vet. Int.* 72.

Archbiſhop, ſeiſed of advowſon of a prebend to which the king preſented, by reaſon of the temporalities in his hand, ſucceſſor granted next avoidance to plaintiffs and others deceaſed, *Co. Ent.* 507.

Defendant, ſeiſed of manor to which, &c. granted next avoidance to plaintiff, *Ra.* 521. J. ſeiſed of manor to which, &c. preſented and levied a fine *with remainder to himſelf for life*, and granted next avoidance to plaintiff, *Ibid.* Huſband and wife ſeiſed, &c. preſented, wife ſurvived and took another huſband, who granted next avoidance, 525. T. ſeiſed, &c. preſented and enfeoffed J. who gave in tail to C. from whom it deſcended to S. who granted next avoidance to plaintiff, *Ibid.* A. ſeiſed of a manor that deſcended to B. who levied a fine to C. who granted next avoidance to plaintiff, *Co. Ent.* 264. J. ſeiſed of manor, &c. preſented, manor deſcended to E. *Grant of next avoidance to plaintiff*, *Keil.* 53. *R.* and wife ſeiſed, &c. preſented, had two daughters, wife ſurvived, and by act of parliament daughters and huſbands were to enjoy the manors and partitions made and repealed by another act. E. ſeiſed granted to the king in tail, who granted next avoidance to plaintiff, *Ibid.* 523.

By huſband and wife, executrix of grantee of next avoidance in the term of co-

heireſs, *Co. Ent.* 477. By aſſignee of next avoidance, *Ibid.* 481. Grantee of next avoidance after partition of advowſon in groſs, *Ibid.* 490.

J. ſeiſed of advowſon of moiety of a church, granted next avoidance to S. who aſſigned to M. Grant by J. of advowſon to uſes in tail. Grant by iſſue in tail to uſes in tail. Female tenant for life took baron plaintiff, *Co. Ent.* 591.

Plaintiff, ſeiſed of a caſtle to which the advowſon of a priory in the marſhes of Wales belonged, preſented, and now void by reſignation, *Her.* 545.

J. ſeiſed of an advowſon, granted next avoidance to P. who aſſigned to D. who preſented, advowſon deſcended to S. who granted to plaintiff. Plea in bar by patron, that being himſelf ſeiſed, he granted next avoidance to P. who aſſigned to D. who preſented, and traverſe that J. granted to P. Plea by clerk ſimilar. Replication to both pleas, *Aſh.* 378.

PRESENTATION BY TURNS, OR OF PARTS.

By the heir of a coparcener. J. W. prior, ſeiſed of advowſon in groſs, granted to B. C. &c. Henry 8. ſeiſed. Deſcent to queen Mary. Grant by her to lord D. in tail male. R. L. grants to R. and E. L. Death of R. L. Death of queen. Deſcent of reverſion to queen Elizabeth. E. L. preſented one H. S. The queen after death of H. S. preſented one White by *lapſe*. Lord D. levied a fine, &c. to R. H. to the uſe of R. H. and his heirs during the life of lord D. Grant by R. H. of his eſtate to N. P. Death of lord E. D. Deſcent to E lord D. his ſon and heir. Death of the queen. Grant by Jac. of his reverſion to ſir Charles M. and E. S. in fee, and they grant their reverſion to Edward Skynner in fee. Death of E. Lord D. without heir male. Death of Edward Skynner. Deſcent to R. his ſon and heir. Death of R. S. Deſcent to *four daughters coparceners*. Church void. Parceners do not agree to joint preſentation, and for that it belonged to E. the eldeſt. She and her baron ſuffer a uſurpation. Death of incumbent. Mary, ſecond daughter, ſuffer uſurpation. Death of Margaret, third daughter, and her baron. Deſcent of part of Margaret to J. J. ſon and heir. Death of J. J. and deſcent to plaintiff his brother and heir. Death of incumbent, and belongs to plaintiff in *third* turn to preſent, 2 *Lut.* 1118.

E. ſeiſed of advowſon in groſs, preſented and died. Deſcent to three daughters. Son of eldeſt daughter firſt preſented, and ſon of ſecond; and church void. It now belongs to plaintiff to preſent in his third turn as ſon of third daughter, 1, *Bro.* 296.

J. ſeiſed of *fourth part* of a manor, to which *fourth* part of advowſon, viz. to preſent every fourth turn belonged, preſented. N. and wife, ſeiſed of another fourth part of the manor, &c. N. became lunatic, and church void by ſtatute of pluralities, queen preſented in the term of M. R. and plaintiff, ſeiſed of two parts of the manors, &c. to preſent every other two turns. Church void by reſignation. and R. and plaintiff preſented in their firſt turn. R. died, and plaintiff ſurvived, to whom in ſecond turn it belongs to preſent to vacant church. *Wi. Ent.* 628.

J. ſeiſed of manor of D. to which four turns belonged to preſent, and another turn belonged to manor of W. preſented in the firſt turn. Manor deſcended to B. who aſſigned to mother for dower, who preſented in *ſecond* turn. She died, and B. preſented in third turn. Manor deſcended to R. he preſented in fourth turn. Church void by deprivation. T. ſeiſed of manor of W. preſented in *fifth* turn. R. again preſented in two firſt turns. Manor deſcended to A. who by will deviſed the manor, &c. *Executor durante minoræ ætatis* of heir demiſed to plaintiff, *Wi. Ent.* 650.

Prior, ſeiſed of moiety of advowſon of two parts of a church, and J. of the other moiety, namely, each of them to preſent alternately. Church being full, prior by conſent, &c. granted next avoidance to B. Priory diſſolved by 27. Henry 8. King, ſeiſed of the *moiety*, &c. granted to M. in tail. Deſcent to T. Church void, and next avoidance granted to B. which come to his *adminiſtrator*, who preſented.

ſented. The moiety of J. came to W. who preſented the other moiety to plaintiff, to whom, &c. 715.

Plaintiffs ſet forth the act of union of churches in London of Saint A. B. and Saint A. W. and that Saint A. W. ſhould be the pariſh church, and the reſpective patrons ſhould preſent by *turns*, the firſt to be by that which had the largeſt endowments, and Saint A. W. had the largeſt. That T. G. at the time of the act was ſeiſed in fee of the advowſon of Saint A. B. and C. 2. patron of Saint A. W. 27. C. 2. T. G. ſold his advowſon in fee to ſeveral of the inhabitants of Saint A. B. J. C. died, by which Saint A. W. was firſt vacant after the act, and C. 2. preſented T. S. who was inducted. Inhabitants of Saint A. B. are all dead, but the plaintiffs T. S. died. Church void. Plaintiffs have right to preſent. Demurrer, judgment for plaintiff, and afterwards reverſed in parliament, *Lev. Ent.* 141. *Vide* 3. *Lev.* 415.

W. R. and E. ſeiſed of a manor in common to which, &c. preſented. W. granted his *part* to J. and E. demiſed his part to G. Church void by reſignation, and it now belongs to themſelves J. R. and G. to preſent, 1. *Bro.* 297.

C. H. and T. ſeiſed of a manor in five parts to be divided, to wit, C. of two, H. of two, and T. of one part, to which, &c. preſented. T. ſold his houſe and *part* of advowſon to C. who died, and his parts deſcended to plaintiff, and *parts* of H. to F. in tail, to whom, &c. *Wi. Ent.* 643. *Vide Heb.* 45.

By aſſignee of grantee of next avoidance, where B. was ſeiſed of manor to which, &c. Deſcent to two daughters. Deſcent of purparties. Feoffment. Compoſition by deed to preſent by turns. Divers preſentations in turns, and by the king in right of ward. Two attainted of treaſon of *one* purparty, and grant thereof by the king. Grant of next avoidance for the turn which came to plaintiff by a ſeparate grant, *Wi. Ent.* 754.

T. S. knight, lord M. ſeiſed of *one moiety* of church of H. belonging to the manor of B. and T. W. eſquire, ſeiſed of the other moiety in groſs, T. S. in his turn preſented G. H. clerk, and died, and his moiety deſcended to his ſon and heir, who granted to plaintiff and another the next avoidance in his turn. G. H. died, and T. W. in his turn preſented R. W. who died, and it belongs to plaintiff, &c. *Bro. R.* 407.

That T. S. ſeiſed of the manor of B. to which advowſon of *two parts*, viz. to preſent two firſt turns in every third turn, and T. W. and M. his wife were ſeiſed of the manor of P. to which the advowſon of third part of the church to preſent every third turn belonged. T. S. preſented A. F. and afterwards died, and the manor deſcended to F. S. knight. W. C. died, and T. W. in right of his wife preſented H. P. and church void by deprivation of H. P. and F. S. in his firſt turn preſented R. A. and afterwards F. S. ſold the manor of B. to W. L. ſenior, who demiſed to W. L. junior for one thouſand years. Church void by death of R. A. W. L. junior, in ſecond turn preſented N. P. T. W. and wife died, and the manor of P. deſcended to A. W. the father. Church void by the death of N. P. and it belongs to plaintiff to preſent in his turn, *Clif.* 602.

J. H. ſeiſed of *fourth part* of advowſon, preſented W. W. R. B. ſeiſed of *another fourth part* after death of W. W. preſented J. D. R. S. and wife ſeiſed of another fourth part after death of J. D. preſented J. L. P. V. E. W. and J. E. ſeiſed of another fourth after death of J. L. preſent W. R. Grant by J. H. to T. J. and J. V. R. B. and (J. P. plaintiff) of next preſentation. T. J. J. V. and R. B. died, and plaintiff ſurvived. Church void by death of W. R. and it belongs to plaintiff, &c. *Clif.* 606.

J. ſeiſed of manor to which, &c. enfeoffed H. who demiſed to J. for life, with divers remainders in tail. R. ſeiſed in tail had *four* daughters, one of which had a ſon and died, the ſaid manor and three other manors deſcended to the four parceners, who made *partition* of the manors, except the advowſon. The ſon of the eldeſt daughter firſt preſented, becauſe they could not agree. Second

daughter preſented in her ſecond turn. W. preſented by uſurpation the third turn, and it belongs to plaintiff in fourth turn, &c. *Ra.* 515. *Vet. Int.* 181.

The manor to which, &c. deſcended to *two* ſiſters, who with their huſbands agreed to preſent by turns, and now it belongs to plaintiff, &c. the ſecond turn. Defendant admits the agreement, but ſays, that the clerk alledged to be preſented by defendant after the agreement was preſented before by the father, and it belongs to defendant, &c. the firſt turn which plaintiff does not deny judgment for defendant, 1. *Ra.* 515.

W. ſeiſed of manor of L. to which, &c. which with lands and advowſon of church of N. deſcended to E. and M. daughters, who make *partition* to have ſeveral moieties of manor and lands, and preſent in turns to ſeveral churches, and it belongs to M. and her baron to preſent in ſecond turn, *Ra.* 515. *Vet. Int.* 27. Of eleven ox-gangs of land to which, &c. deſcended to N. and from him to four daughters, who make partition that each ſhould have two ox-gangs and thirty acres of land, and preſent in turns. Several preſentations in turns. Grants of next avoidance. Grants of turns of advowſon. Feoffments of purparty. Deſcent and preſentation by the king in right of ward, *Ibid.* 516. *Vet Int.* 111.

The king, ſeiſed of advowſon in groſs, and of other advowſons, manors, and lands that deſcended to M. J. A. and E. daughters. Purparty of J. deſcended to C. and K. daughters, and ſeveral other purparties to daughters, who make partition, *per quam* advowſon was allotted to purparty of ſaid M. and J. that M. ſhould preſent the firſt turn, and G. and K. the ſecond, and after five turns and ſeveral deſcents it belongs to plaintiff, &c. *Ra.* 517.

Manor to which, &c. deſcended to four daughters, one of which granted her purparty to another. Deſcent to four daughters. The eldeſt daughter, (without partition or agreement alledged) preſented the firſt turn, and ſo the others in turns. Divers deſcents. Grants. Uſurpation on terms. Preſentations by the king in right of ward, and collations by biſhops on *lapſe*, *Ibid.*

M. ſeiſed of three manors, to *one* of which, &c. Deſcent to three daughters, who make partition, *per quam* manor to which, &c. and preſentation in the firſt turn were allotted to one, the other manor and preſentation in the ſecond turn to another, and another to the third. Manor deſcended to *two*, and after ten preſentations in turns, and divers conveyance and deſcents, manor and advowſon were conveyed to plaintiff by fine, *Co. Ent.* 468.

By *huſband and wife* executrix of grantee of next avoidance, when B. was ſeiſed of the manor to which, &c. that deſcended to two daughters. Deſcent of purparty. Feoffment. Agreement by deed to preſent by turns, and ſeveral preſentations by turns, *Co. Ent.* 477.

A. ſeiſed of advowſon in groſs, preſented and granted advowſon to B. and C. in fee, who agreee to preſent by turns, and afterwards granted their ſeveral moieties in tail, and one moiety deſcended to plaintiff, *Co. Ent.* 479.

T. ſeiſed of the manor of B. to which *two* parts of advowſon belonged, preſented two firſt turns. L. and wife ſeiſed of manor of P. to which *third* part, &c. preſented in third turn. L. preſents in fourth turn, and ſold the manor to M. who demiſed to S. who preſented fifth turn. Manor of P. deſcended to plaintiff, who ought to preſent the ſixth turn. Plea in bar, title to preſent by turns, and traverſes that church was void by deprivation. Demurrer, *Co. Ent.* 486. 505. *Dy.* 299.

A. and B. ſeiſed of advowſon *in common*; that A. to preſent in firſt turn and B. ſecond, A. granted next avoidance to plaintiff. Plea by patron, that biſhop collated *by lapſe* in turn of A. and afterwards A. preſented in turn of B. and granted next avoidance to plaintiff, and *traverſes* that clerk was preſented in turn of A. Demurrer. Plea by *clerk*, that R. ſeiſed of advowſon that deſcended to T. biſhop collated *by lapſe*. T. granted the advowſon to uſes, and afterwards granted next avoidance to A. who preſented, and afterwards T. granted next avoidance to defendant, and *traverſe* that at the time of the preſentation of the clerk A. and B. were ſeiſed of the advowſon, and iſſue; *Co. Ent.* 496.

A. ſeiſed

A. ſeiſed of the advowſon of the fourth part of the church, preſented. B ſeiſed of another fourth part, preſented. C. ſeiſed of moiety of the manor, to which the advowſon of the other fourth part belongs preſented, and D. ſeiſed of the other moiety thereof preſented, and A. granted next avoidance to plaintiff, *Dy.* 78. Manor to which, &c. deſcended to two daughters, who make partition, &c. *T.* 5. *E.* 3. 12. *Vet. Int.* 72.

Advowſon deſcended to A. and B. daughters, who aſſigned to their mother for dower, who granted next avoidance to C. and D. who preſented. A. and B. took huſbands, preſented, and died. Church void, and becauſe they could not agree to preſent, it belongs to ſon and heir of eldeſt ſiſter, &c. *Her.* 546.

A. ſeiſed of third part of a manor, to which third part of advowſon to preſent every third part belongs. B. ſeiſed of other third part of the manor, &c. and C. of another third part whereof, &c. ſeverally preſented. A. died; deſcent to D. and from him to plaintiff, *Ibid.* 548.

PLEAS IN BAR AND IN ABATEMENT. (*See* ABATEMENT.)

Plea in bar, that preſentation on the firſt turn belonged to the manor of S. and two next turns to manor of B. and fourth turn to manor of W. Several preſentations, and *traverſe* that preſentation on the two firſt turns belonged to manor of B. and third to manor of M. *Co. Ent.* 506.

Plea, by clerk in *abatement*, that patron is not named in the writ on ſimony alledged, but not allowed, 3. *Lev.* 13. Demurrer by attorney general, *Bro. R.* 410. *Clif.* 627. 2. *Lut.* 1088. Special imparlance, *Clif.* 614.

Plea that he *did not hinder.* Judgment thereon by attorney-general, and writ to the biſhop to admit, *Wi. Ent.* 709. And judgment thereon for plaintiff, with *remittitur damna*, *Ra.* 517. And writ thereon to admit clerk, and *venire facias* to try the iſſue for damages, *Ibid.* 503. And by one defendant and judgment thereon, but *ceſſet executio* till plea determined between plaintiff and other defendant, *Ibid.* 522. And judgment and iſſue for damages, *diſtringas* awarded againſt the other defendant, and judgment for plaintiff on the return, *Ibid.*

Plea by one defendant, *did not hinder* the other ſpecially, *Ra. Ent.* 528. *Wi. Ent.* 703. and judgment thereon, but *ceſſet executio* ti l plea between plaintiff and the other defendant be determined, and *nihil* as to coſts, defendant within age, 2. *Bro.* 224. *Wi. Ent.* 710.

Plea, patron confeſſes the action. By clerk, that W. ſeiſed of the manor to which, &c. made a feoffment to uſes for life and in tail, remainder in tail deſcended to defendant, the patron, who preſented him, and had traverſe. Demurrer ſpecial, *Wi. Ent.* 664.

Clerk confeſſes declaration to deſcent of king James, and pleads that James died ſeiſed of advowſon that deſcended to Charles, who preſented defendant, and traverſe that king James granted M. &c. and iſſue, *Ibid.* 667.

Plea by *patron* and *clerk* jointly, that the abbot ſeiſed of the rectory to which the advowſon of vicarage belongs, ſurrendered to H. 8. deſcent to Elizabeth, on whom plaintiff's grandfather uſurped. Grant by Elizabeth of the rectory and advowſon to C. who ſold to T. who ſold to defendant the patron, who preſented the other defendant, and *traverſe* that advowſon of the vicarage belonged to the manor, and iſſue, *Ibid.* 691. *Vide Hob.* 327. Special verdict and judgment for plaintiff.

Plea by defendant, that *he did not hinder*, another pleads that T. was ſeiſed of third part of advowſon to preſent every firſt turn, and plaintiff's father of two parts, who ſeverally preſented in their turns. Part of T. by ſeveral grants came to defendant, who in his firſt turn preſented, and *traverſe* that plaintiff was ſeiſed of advowſon in groſs by itſelf, *Wi. Ent.* 703. *Vide Hob.* 184.

Plea by *patron*, confeſſion of part, and that H. covenanted to ſtand ſeiſed of two fifth part to uſes in tail, and had a ſon, and he and ſon granted next avoidance to

plaintiff. By *clerk*, that he is *parſon imparſonee* of the preſentation of the patron, and pleads ſimilar plea. Demurrer, *Wi. Ent.* 644. *Vide Hob.* 45.

By *clerk*, that he is vicar *imparſonee* on the preſentation of the king, whereof he does not intend that our lord the king will implead him, and that the vicarage was void by the ſtatute of pluralities, and *by lapſe* devolved to him to preſent, and he preſented defendant. Demurrer, *Wi. Ent.* 710.

The *biſhop* claims nothing, &c. the other defendant pleads that the plaintiff had not a grant of the new avoidance, *modo et forma*, and iſſue. 2. *Mo. Int.* 292.

Confeſſion of action by *patron*. Plea by *clerk*, that patron's father died ſeiſed of the advowſon, which deſcended to patron, who preſented defendant, and *traverſe* that the father granted the next advowſon to plaintiff, and iſſue, 1. *Bro.* 300.

Defendant confeſſes declaration, and further pleads that R. the iſſue in tail, ſuffered a common recovery of the advowſon to defendant's uſe for twenty-one years, who was poſſeſſed of the ſame as in groſs, and church being void, it belongs, &c. Replication, that the recovery was had to the ſame uſes as the fine, and *traverſes* that it was had to defendant's uſe. Demurrer, 2. *Bro.* 206.

Confeſſion of part of the declaration to the grant of next avoidance of W. and then pleads that W. died inteſtate, and adminiſtration was committed to R. who preſented, and is parſon *imparſonee*, and traverſe that W. granted next avoidance of E. and iſſue, 2. *Bro.* 224.

That H. 8. ſeiſed of advowſon in *groſs* preſented. Deſcent to Ed. 6. who preſented, from him to Eliz. who preſented, from her to James, on whom plaintiff uſurped, and the king now preſented defendant, who is parſon *imparſonee*. Replication, confeſſion of part of plea, but ſays, that Eliz. ſeiſed granted advowſon in fee to A. and plaintiff, and A. by deed releaſed to plaintiff, who is ſole ſeiſed. Rejoinder, defendant prays *oyer* of letters-patent, ſays that Eliz. did not grant, 2. *Bro.* 266.

T. and J. ſeiſed of moiety of a manor to which, &c. preſented and made a gift in tail to J. and his wife, deſcent thereof to O. the iſſue in tail, upon whom church being vacant, the late biſhop uſurped, and by the king's licence was appropriated to the biſhop, who made a vicarage thereof, to which plaintiff by uſurpation preſented. Moiety deſcended to defendant, who preſented the other defendant to the church vacant by reſignation. Replication, proteſting he does not confeſs the gift, for plea that O. was ſeiſed of a moiety, &c. in fee, and enfeoffed the late biſhop of one acre thereof, with the advowſon in fee *cum conventu* by licence, &c. appropriated the church to their own proper uſe, and made the vicarage to which the late biſhop and the now plaintiff ſeverally preſented, and *traverſe* that the advowſon belongs to the moiety of the manor, and iſſue, *Pl. Gen.* 475.

Plea by *incumbent* T. S. that he is parſon *imparſonee* of the preſentation of one J. S. gentleman, his patron, who is yet living, and deſcent to H. 8. and from him to Ed. 6. from him to queen Mary, from her to Elizabeth, and that church void by death of D. H. incumbent. Queen Elizabeth preſented B. N. who reſigned, and ſhe preſented K. R. He died, and plaintiff uſurping on the queen's right, preſented ſaid R. T. Queen Elizabeth dies, and advowſon deſcends to James; he grants next avoidance to J. S. R. T. the incumbent dies, and J. S. preſents the ſaid T. S. Replication, judgment againſt the biſhop, and writ awarded; plaintiff proteſting that queen Mary and Elizabeth and king James were not ſeiſed or died ſeiſed; for *plea*, confeſſes ſeiſin of H. 8. and his dying ſeiſed, and that advowſon deſcended to E. 6. who granted to T. Y. gentleman, who granted to T. C. gentleman and Jane his wife. She dies, and S. was ſole ſeiſed and died. Death of D. H. incumbent, and church continued void for eighteen months and upwards, and preſentation came to queen Elizabeth, who preſented ſaid B. N. who reſigned, and plaintiff had *notice* of it the ſixth of November, 18th Elizabeth, and church continued void for eighteen months, by which preſentation W. came to the queen, who thereupon preſented

ſented the ſaid K. R. who died, and it belongs to the plaintiff to preſent as the true patron, whereupon he preſented R. T. who died, and thereupon it belongs to plaintiff to preſent, and *traverſe* that king Edward the Sixth died ſeiſed *prout*, &c. Demurrer and joinder, *Bro. Vad.* 377.

Plea by defendants *biſhop* and *clerk* in abatement at the ſuit of the king for *variance* between the writ and count. Demurrer by attorney-general. Joinder. Reſpondeas ouſter, *Lev. Ent.* 145. Demurrer by biſhop to the *count*, and incumbent confeſſing ſeiſin and collation of L. and all the preſentation by the king, pleads 25. H. 8. of diſpenſations, and that archbiſhop granted to Dr. T. a diſpenſation to hold in *commendam*, with confirmation of letters of diſpenſation by the king, that T. was created biſhop of Lincoln, and then biſhop of London collated incumbent. Joinder by attorney-general, and demurs to incumbent's plea, who joins in demurrer, *Ibid.* 146, &c.

Plea to the count by the king on ſtatute 21. Eliz. of *ſimony* againſt incumbent only in abatement of the writ, for that *patron is not named* in the writ with defendant. Demurrer by attorney-general to plea, and joinder *cur. adv. vult. Nolle pros.* by attorney-general, *Ibid.* 410, &c.

Plea in bar to count by ſurviving aſſignee on grant of next preſentation, &c. that long before R. A. had any thing A. H. was ſeiſed and preſented C. G. A. had iſſue four daughters, Ann, Mary, Elizabeth, and Dorothy, to whom advowſon deſcended. Mary and Dorothy grant their two parts to Elizabeth, and Ann died, and her purparty deſcended to J. B. Elizabeth died, and her purparty deſcended to R. C. Church void by death of C. G. J. B. in his turn preſented T. F. J. B. died, his part deſcended to T. B. who died, and deſcent to W. B. and then R. C. granted his *three* parts to T. A. Church void. T. A. preſented J. C. W. B. died, deſcent to J. B. T. A. died, deſcent to J. A. who in *ſecond* turn preſented J. H. J. A. died, deſcent to R. A. in the count, who in third turn preſented S. H. J. B. died, deſcent of *fourth* part to W. B. who granted to defendant, the patron, the next avoidance, who in turn preſented O. J. his clerk, *Clif.* 615. &c. traverſing that R. A. was ſeiſed *modo et forma*, &c. *Ibid.* 627. O. J. incumbent, pleads as before, and iſſue on the ſeveral traverſes, *Ibid.* 617, &c.

Plea by *patron*, that P. earl A. was ſeiſed in groſs, and preſented R. S. and afterwards granted to T. T. Deſcent to H. T. and fine levied to uſe of M. B. and the heir, who preſented (after the death of R. S.) H. T. M. deviſed to his wife for ſixteen years, and the reverſion deſcended to B. Church void. T. earl A. uſurped on the wife, and preſented R. W. A. B. died ſeiſed, and deſcent to defendant. Church void, and E. A. on his nomination, was collated, &c. Church void, and defendant preſented the preſent incumbent, and traverſes that earl A. at the time when, &c. preſented, was ſeiſed, &c. Clerk ſhews title to Thomas, earl A. by act of parliament, and his heirs male, and fine levied to the uſe of A. B. the father of ſaid W. B. and deſcent to W. B. on whoſe nomination the ſaid E. A. was collated, after his death W. B. preſented defendant, the now incumbent, and traverſe as before, *Ibid.* 623. Iſſues on the ſeveral traverſes, *Ibid.* 625.

Plea by defendant of ſtatute Hen. 8. againſt taking two benefices, and entitles by lapſe to the king, *Bro. Met.* 339.

Plea, and the queen entitles herſelf to the preſentation of the church of C. by *ſtatute of pluralities* upon the acceptance of Bolt, clerk of the benefice of R. Plea by defendant C. did not diſturb, and iſſue. Plea by *L. defendant* and *J. Blo* of the proviſes in the act of diſpenſations, and that before Bolt accepted he was chaplain to queen Mary, and that the queen was ſeiſed of the manor of R. to which, &c. in right of the dutchy of L. and the church being void by the death of one M. the queen preſented Bolt, and that lord D. granted the advowſon of C. to T. U. in fee. T. U. granted to S. grant by S. to H. lord Stafford, deſcent to his ſon H. lord S. Grant by him to R. Blo, grant by him to defendant Blo, and church of C. void by death of Bolt, whereby defendant J. Blo preſented defendant A. and plea by A. in effect as above, 2. *Lut.* 1078.

Plea by lapſe *ſur meſne* ſtatute or pluralities, and confeſs that M. biſhop of L. was ſeiſed of C. and collated G. G.; that G. was qualified and accepted H. but after and before G. was inducted biſhop was tranſlated to W. and T. ſucceeded him; that G. afterwards accepted W. and T. biſhop collated June, and T. biſhop, was tranſlated to W. that the biſhop, one of defendants, ſucceeded him. Church void by death or J. Biſhop collated defendant L. who had been parſon, &c. for ſix months and more, *Ibid.* 1084.

Plea after divers proteſtations, confeſſing part of the count; that prior granted to W. for ninety-nine years, on whom C. and D. uſurped, and confeſs the reſidue of the count to preſentation of the laſt incumbent, who was *deprived* for non-payment of tenths. Church void, and for eighteen months the king preſented defendant, and traverſes church void by the death of laſt incumbent, 2. *Bro.* 236.

Plea to count by the king on title for ſimony. By biſhop as uſual. By patron, demurrer. By incumbent N. H. that he is parſon imparſonee on the preſentation of defendant.— T. B. and C. B. eſquires, were ſeiſed in fee of the manor of W. S. to which the *third* part of advowſon belonged; that C. B. was ſeiſed of the manor of W. T. otherwiſe W. T. A. to which the remaining third belonged. That H. B. in his firſt turn preſented G. and that C. B. in his ſecond turn preſented W. R. and defendant T. B. in his turn preſented the defendant N. H. and traverſes the ſimony. Replication and judgment againſt the biſhop, and iſſue joined on the incumbent's traverſe, and attorney general joins in demurrer with T. B. *Ibid.* 1091, &c.

That the laſt incumbent of a rectory took *another* benefice with cure of ſouls, *per quod* the firſt church void, and by lapſe came to the queen, who preſented defendant, *Pl. Gen,* 485. with traverſe that church was void by death of the laſt incumbent, and iſſue, *Wi. Ent.* 779.

Plea, proteſting, &c. by *patron*, that A. ſeiſed of the manor to which, &c. granted next avoidance to R. who preſented, and afterwards A. demiſed the manor to defendant, who preſented *another*. Defendant confeſſes plaintiff's title, and *traverſes* that plaintiff preſented another clerk. Confeſſion by clerk of plaintiff's title, and further pleads that plaintiff granted next avoidance to T. who aſſigned to the patron and to the plea of clerk maintaining his count, and *traverſes* grant to T. Iſſue. Judgment for defendant on demurrer, *Ibid.* 623.

Plea by patron, confeſſion to part of count, to church vacant by ſtatute of pluralities, and pleads that the church continued void for the ſpace of two years, and queen preſented by lapſe in the firſt turn of R. and plaintiff and church void by reſignation to which R. and plaintiff preſented in ſecond turn The wife of N. ſurvived him, and enfeoffed W. who granted next avoidance to defendant; traverſe that the queen preſented in turn N. Confeſſion by *clerk* of count to the death of R. whom plaintiff ſurvived and enfeoffed G. who enfeoffed W. who granted next avoidance to patron, who preſented defendant, and traverſes that plaintiff was ſeiſed at the time of the death of the laſt incumbent, *Ibid.* 630. Demurrer to *patron's* plea, *Ibid.* 632.

That E. ſeiſed of a manor to which, &c. preſented and ſold the manor of M. and enfeoffed O. who enfeoffed G. who granted next avoidance to H. who aſſigned to B. Church void by reſignation. R. uſurped on B. and preſented deſcent of manor to defendant, who preſented clerk to the vacancy, and *traverſes* that E. granted the next avoidance to R. Special demurrer, *Ibid.* 648.

Plea in bar, ſtatute of ſimony, church void; traverſes avoidance by free reſignation of laſt incumbent, and iſſue, 1. *Bro.* 298. By *clerk*, who is parſon imparſonee on the king's preſentation. Replication, that W. *bona fide* granted the next avoidance, and traverſes ſimony. Iſſue. Judgment for defendant at the aſſizes on verdict, *Wi. Ent.* 775. *Vide Hob.* 165. By *patron*, that he purely and voluntarily &c. preſented clerk, traverſes ſimony. Like plea by *clerk*, and iſſue on both, 2. *Bro.* 219. Like plea, and traverſe by *clerk*, *Ibid.* 222.

Plea by *patron* and *clerk* jointly, that R. purely, &c. preſented clerk, and that patron being poſſeſſed of advowſon by virtue of writs of extent and *liberate* preſented to the

the vacancy, and church now vacant by ſtatute of pluralities; patron preſented; the other defendant traverſes ſimony between R. and his clerk, and iſſue, *Wi. Ent.* 713. *Vide Hob.* 167. Pardon of ſimony pleaded after the laſt continuance, and demurrer, *Wi. Ent.* 714.

Plea in bar to *quare impedit* by univerſity of Oxford on the ſtatute 5. Jac. by *patron*, that R. enfeoffed defendant of the manor to which, &c. and church void preſented the other defendant; traverſes that R. died ſeiſed of the manor, &c. Confeſſion by *clerk* of the count, and plea that W. (church being full) demiſed the advowſon to the patron for twenty-one years, who (church being vacant) preſented defendant. Replication to plea of patron, maintains his count, and traverſes feoffment to patron, and demurrer to plea of parſon, and demurrer by patron to replication, *Ibid* 627. 773. Judgment for defendant, *Vide Hob.* 126. *Wi. Rep.* 11.

Plea by *clerk*, that he is parſon imparſonee on the king's preſentation, and that the laſt incumbent, after the publication of an act for the reſtoration of the miniſtry, did not make any election, which benefice he would retain within a convenient time, to wit, &c.; *per quod* the king before grant made by him to lord B. preſented defendant. Demurrer, *Wi. Ent.* 726.

By *patron*, confeſſion of part of the count, pleads that J. enfeoffed W. who after the death of the wife entered into the manor and enfeoffed defendant's father, who demiſed the manor to B. for ſixty years, who preſented third and fourth turn, who in their fifth turn preſented, the intereſt in the term came to R. who preſented in two firſt turns, reverſion of the manor deſcended to defendant, and term of years expired, defendant entered and preſented; traverſe that J. died ſeiſed of the manor, &c.; by clerk, confeſſion of part of count, plea that patron in the third turn uſurped on B.; *per quod* he was ſeiſed of four parts of the advowſon as in one groſs, and demiſed to R. who preſented in fourth turn, and to reſidue, as before; traverſe that J. was in the church on the preſentation of B. Plea by *clerk*, that Hen. 8. ſeiſed of the manor of B. C. to which the advowſon of D. belonged granted to R. in tail, and after divers deſcents and preſentations the manor deſcended to A. within age. the king ſeiſed of the ward of his body and manors preſented; defendant traverſes that four parts of the advowſon belong to the manor of D. and fifth part to the manor of W. and iſſue and demurrer to plea by patron. Special demurrer to plea of the firſt clerk, *Ibid* 652.

Plea by patron, proteſting, &c. that prior was ſeiſed of one moiety and P. of another, that prior granted the next avoidance to B. *Plenarty* of clerk of P. who died, and F. *uſurping* preſented in turn of grantee of prior, and had the other moiety as heir of P. Church void, and *adminiſtrator* of B. by *uſurpation* preſented, moiety of F. came to W. who preſented to the vacancy, and granted next avoidance to defendant, who preſented another defendant, and traverſe that the vacancy firſt named in the count was the firſt after the grant of the prior. Demurrer by *clerk*, proteſting, &c.; for plea, that Hen. 8. did not grant to M. as in the count, iſſue, *Ibid.* 718. Special verdict and judgment for plaintiff, *Vide Hob.* 237.

PLEAS IN BAR.

Plea, *did not hinder*, judgment for plaintiff with *remittitur damna*, *Ra.* 517. and *writ* thereon to the biſhop to *admit* clerk, and *venire facias* to try the iſſue for damages, *Ibid.* 503. By one defendant, judgment thereon, with *ceſſet executio* till the plea between plaintiff and another defendant be determined, *Ibid.* 522. Judgment thereon, and iſſue for damages. *Diſtringas* awarded againſt the other defendant, and judgment for plaintiff on the return thereof, *Ibid.* 522. Iſſue between plaintiff and biſhop of a *ſpecial hindering*, the other defendant pleads *that he did not hinder*, and iſſue to enquire of damages, *Ibid.* 513. *Vet. Int.* 73.

Plea by *clerk*, that he claims nothing in advowſon unleſs as parſon inſtituted on the preſentation

preſentation of E. Replication, that he diſturbs, *Ibid.* 513. By one defendant, *did not hinder* the other *ſpecially*, *Ibid.* 528.

Plea by *clerk*, he claims nothing unleſs on the preſentation of G. not named in the writ, *Co. Ent.* 58. Unleſs as parſon imparſonee, and judgment. Plea by other defendant, takes iſſue, *Ra.* 529.

PLENARTY PLEADED.

Plea of *plenarty* of defendant on his own preſentation for ſix months before the original purchaſed, *Vet. Int.* 70. *Plenarty* of clerk of one defendant on the preſentation of the other for ſix months before, &c. *Writ* to the biſhop, and after his death of archbiſhop, *Ra.* 498. *Co. Ent.* 498. *Plenarty* of defendant, traverſes reſignation, *Co. Ent.* 265.

Plea by prior, *plenarty* of J. the other defendant on the preſentation of the prior for ſix months before, &c. and by J. that he is parſon imparſonee on the preſentation of the prior for ſix months before, &c. Replication, church vacant till original. &c. and that J. was *inducted* on the preſentation of the prior. Demurrer and judgment for defendant, *Ra.* 499. *Vet. Int.* 132.

PLEAS, THE ABATEMENT AND BAR CONTINUED.

Plea by clerk, that he is parſon imparſonee on the preſentation of J. one defendant and E. his wife tenant in tail, in *abatement* of the writ, for that he is not named in the writ. Demurrer by patron in bar, title by his wife's eſtate tail, and *uſurpation* by another tenant in tail; traverſe that P. was admitted on the preſentation of M. and iſſue; and *writ* to the biſhop to certify, *Ra.* 533.

That he was not admitted on the preſentation of R. and iſſue, *Ra.* 530. *Vet. Int.* 73. Prior defendant's predeceſſor preſented clerk, who was admitted on his own preſentation, and not on the preſentation of E. and iſſue, *Ibid.* 503. Replication, that the father, at the time of the preſentation, was within age, and his guardian preſented clerk, who by colluſion between the prior and him reſigned, and was admitted again on the preſentation of the prior. Rejoinder, that the guardian did not preſent clerk, nor was the clerk admitted on his preſentation, and iſſue, *Ra.* 503.

Plea by *clerk*, that he is parſon imparſonee on the preſentation of plaintiff's grandfather, and traverſe the avoidance. Replication, that defendant was a baſtard, and incapable, which the biſhop knew. Rejoinder, proteſting no avoidance, for plea that biſhop did not know, and to reſidue, demurrer, *Her.* 549.

That the laſt parſon preſented was *mere laicus*, and that the church remained void by law, and archbiſhop collated by lapſe, *Co. Ent.* 507. That church was not void *modo et formâ*. Replication, void by *deprivation* in the count ſtated, *Ra.* 500. *Vet. Int.* 111.

That plaintiff, after the grant of the next advowſon, and before avoidance made to one defendant, a general releaſe, and *non eſt factum* thereto, *Ra.* 523. *Vet. Int.* 26.

That defendant had proviſion of a prebend from the Pope, and accepted that avoidance, and the king after *confirmed* to him the prebend. Judgment for defendant at the king's ſuit, *Ra.* 531.

By clerk, that he was reſtored to the church after *deprivation* for cauſe of matrimony, and traverſe the avoidance by death. Demurrer, *Co. Ent.* 487.

By abbot, that T. ſeiſed of advowſon in groſs levied a fine to W. who by pardon and licence to alienate levied to the abbot *in puram eleemoſinam* and *appropriation* thereof to the abbey, and the abbot held it for their own uſe, *Ra.* 497.

That H. 8. preſented M. advowſon deſcended to E. 6. who granted it to dean and chapter in fee, and *united* and appropriated it to them. Church void. Defendant was parſon. E. 6. afterwards preſented, but void becauſe church was full. Demurrer, *Ra.* 497. *Plo.* 494.

That his father died ſeiſed of advowſon and of lands held in *capite*, the king ſeiſed the

the heir within age, and preſented in right of ward. Replication, that the preſentation was revoked by decree in chancery, and for that defendant does not make title, and the father granted lands with warranty. Judgment for plaintiff, *Ra.* 499.

Plea by one defendant, that the advowſon was allotted by plaintiff to the widow for dower; ſhe preſented, and the biſhop afterwards collated by lapſe; the widow died, and it now belongs to defendant, &c.; traverſe that B. was parſon. Like plea by the other defendant, traverſing, &c. Several iſſues, *Ra.* 519.

Confeſſion of part of the count, and plea that H. 8. *uſurped* in the turn of one coheireſs; *per quod* the king was ſeiſed of a moiety of the advowſon, and afterwards E. 6. preſented in another turn, uſurpation on the king, and traverſe that W. granted the next avoidance to H. 8. *Co. Ent.* 475.

Plea by J. that W. ſeiſed of a manor to which, &c, preſented G.; manor deſcended to M. and from him to R. who enfeoffed F. who gave to B. and P. his wife in tail. B. preſented, manor deſcended to defendant, who demiſed to E. and others for years; within which term plaintiff, by uſurpation, preſented the laſt clerk. Plea by clerk. Plea in bar by B. that W. ſeiſed of the manor to which the advowſon of the moiety of the church belonged, and of the other moiety in groſs, preſented to the church *entire* manor, and advowſon deſcended to K. who enfeoffed F. who gave in tail, &c. as before, and J. demiſed to B. for years *in futuro*. Replication to the pleas of J. and Clerk that S. was ſeiſed of advowſon in groſs, deſcent to plaintiff; traverſes that advowſon belonged to the manor, and iſſue. Replication to plea of B. that advowſon deſcended to him; traverſes that advowſon of moiety of church belonged to the manor, and iſſue and judgment for plaintiff againſt B. as to moiety of church, to which he did not anſwer, *Ra.* 509.

Plea by *patron*, that J. was ſeiſed of the manor to which, &c. deſcent to W. who enfeoffed G. who demiſed to defendant for life; traverſes that W. died ſeiſed. Like plea by clerk, iſſue on the traverſe, *Ra.* 513. *Vet. Int.* 131.

That J. ſeiſed of the manor to which, &c. gave it to G. in fee, deſcent to R. who married defendant, to whom the king, after his death, aſſigned third part of the manor held in *capite* for dower; traverſe, advowſon in groſs *per ſe*, *Ra.* 514.

That the church, on a certain day, was void by death, and title to preſent by lapſe came to the king, upon whom the laſt patron uſurped, and it now belongs to the king, &c. who preſented defendant; traverſe that the laſt patron preſented the laſt clerk in the time of Edw. 6. Demurrer, *Co. Ent.* 489.

Plea to count on grant of next avoidance on the 16th of May, that grant was made to defendant on the ſame day, and that the grant made to plaintiff was firſt delivered the 18th of May, and iſſue, *Keil.* 54.

Plea by warden and vicar of a college, that W. ſeiſed of advowſon in groſs, granted to defendant, and afterwards J. and his wife, to whoſe wife plaintiff is heir, levied a fine with warranty that deſcended upon plaintiff. Church *appropriated*, and vicarage *endowed* and now void. Demurrer, *Ra.* 533.

Plea to count by the king on a title by attainder, that the advowſon was entailed by ſtatute, and traverſes ſeiſin in fee at the time of the attaint. Replication, that the ſtatute was repealed by a later. Rejoinder, that there was a *ſaving* in the act of the lands to be aſſigned to the heir, and that lands were aſſigned. Surrejoinder, maintaining replication, traverſes the aſſignment, *Co. Ent.* 483.

Plea by clerk at the ſuit of the king, that abbot ſeiſed of a rectory to which, &c. ſurrendered to H. 8. who granted to archbiſhop, whoſe ſucceſſor granted next avoidance to patron; traverſes that F. was ſeiſed in fee of the advowſon in groſs. Replication, proteſting, &c. for plea archbiſhop did not grant, &c. Demurrer, *Co. Ent.* 495.

That A. ſeiſed, covenanted to levy a fine and ſuffer recovery to uſes, and that conuſee ſhould grant next avoidance to A.; fine and recovery were had, but next avoidance was not granted. Demurrer, *Ibid.* 504.

Confeſſion to part of count, and plea that A. ſeiſed, deviſed advowſon to R. who granted to king in fee, deſcent to the now king, who preſented; traverſes deſcent to plaintiff. Demurrer, *Ibid.* 504.

That the king ſeiſed the manor to which, &c. by reaſon of the minority of the heir, and granted to the widow a third part as and for dower, and king afterwards preſented, and now it belongs to the widow, defendant, &c. Replication, that J. alledged to have been preſented by the king, never was parſon imparſonee. Rejoinder by eſtoppel, for that defendant, before feoffment made to plaintiff by H. brought a writ of *quare impedit* againſt ſaid H. and in the count alledged the king to have twice preſented. Surrejoinder, that H. enfeoffed plaintiff before the judgment, *Ra.* 590.

That prior, ſeiſed of the avoidance by licence of the king, gave it to the biſhop in fee, who preſented J.; traverſes that J. was admitted on plaintiff's preſentation, and iſſue. Certiorari awarded to archbiſhop; continuance, and return, *Ra.* 501. *Vet. Int.* 130.

Plea by patron, that defendant's father ſeiſed, preſented the laſt clerk, and deſcent to defendant, and traverſe that A. preſented the laſt clerk. Demurrer, plea by clerk, that he is parſon imparſonee on the preſentation of the patron, to whom preſentation belonged, for cauſe alledged, and traverſe as before. Demurrer, *Co. Ent.* 480.

That abbot ſeiſed, granted next avoidance to defendant. Replication, did not grant, *Ra.* 524.

That king ſeiſed of manor to which, &c. in right of dutchy of Lancaſter, granted next avoidance to W. who preſented to defendant, who is parſon imparſonee, *Ibid. Vet. Int.* 71.

By *patron*, that prior granted next avoidance to E. who aſſigns to C. who made defendant his *executor*. Like plea by *clerk*. Replication by 31. H. 8. Poſſeſſions of the abbey were given to the king, and grant made after the beginning of parliament. Rejoinder, a *ſaving* in the act. Demurrer, *Ra.* 526.

That H. ſeiſed, granted next avoidance to defendant, and traverſe that he gave in tail, *Her.* 58.

PLEA IN BAR BY BISHOPS AND CLERKS.

Plea, biſhop claims as ordinary to the church, and judgment, *Wi. Ent.* 627. 644. 648. 652. 741. *Bro. Vad.* 359. 362. 371. *Clif.* 607. 615. 2. *Mo. Int.* 292. *Ra.* 497. 523. 526. *Co. Ent.* 512. 515. *Vet. Int.* 26. By archbiſhop, *Wi. Ent.* 710. 725. 3. *Lev.* 15. To two parts of the church, *Wi. Ent.* 718. *Ra.* 520. To vicarage, *Ibid.* 524. *Co. Ent.* 510. 1. *Bro.* 300. 2. *Bro.* 227. *Wi. Ent.* 624. To church, at the ſuit of the king, *Wi. Ent.* 750. 2. *Bro.* 220. 222. *Ra.* 528. *Co. Ent.* 516. *Vet. Int.* 20. *Wi. Ent.* 710. To vicarage, *Co. Ent.* 510. Archbiſhop claims as ordinary in vacancy of epiſcopal ſeat, *Wi. Ent.* 761. *Co. Ent.* 586. Guardians of the ſpiritualities of archbiſhoprick of York claim as ordinary during vacancy of archbiſhop, 1. *Bro.* 298. Judgment thereon, *Ibid.* 299. Archbiſhop claims as ordinary, by reaſon of ſuſpenſion of biſhop, *Wi. Ent.* 667. 730. Vicar-general of the archbiſhop of York claims as ordinary, archbiſhop being in foreign parts, *Ra.* 513. *Vet. Int.* 132.

Archbiſhop claims as ordinary. Replication, church void by death of O. and plaintiff, within ſix months, preſented clerk, and defendant preſented another; *per quod* church became litigious. Archbiſhop awarded inquiſition *de jure patronatus*, and verdict for plaintiff, and notice thereof to archbiſhop, who afterwards refuſed to admit plaintiff, and *ſo hindered*. Rejoinder, proteſting, &c.; for plea, that plaintiff was ſeiſed of two parts, and defendant of third part of advowſon; that plaintiff preſented J. in the firſt turn, and after the death of O. the laſt incumbent in the ſecond turn, and now it belonged to defendant to preſent, and before plaintiff's requeſt, having firſt notice of defendant's title, inſtituted his clerk. Demurrer, *Wi. Ent.* 703.

Plea, biſhop proteſting that vicarage of O. was not of the yearly value of eight pounds; for plea, that after W. had accepted vicarage of L. and before the purchaſe of plaintiff's writ, plaintiff preſented one A. J. to defendant, who was admitted and inſtituted, and is now parſon. Repli cation, proteſting defendant's plea is inſufficient, &c.; for plea, ſaith that he being ſeiſed in fee, vicarage of O. became void by acceptance of vicarage of L. by the ſaid W. and that within ſix months after the vacation, he preſented ſaid J. to the defendant, being ordinary, who refuſed to admit him unleſs it might be as well on the collation of defendant as on the preſentation of plaintiff, which plaintiff denied, and brought original againſt defendant; pending which defendant admitte d and inſtituted ſaid J. as well on his own collation as on preſentation of plaintiff without his knowledge, which admiſſion, &c. is the ſame mentioned in defendant's plea. Rejo nder, defendant proteſting that he did not refuſe to admit ſaid J. on preſentation of plaintiff; for plea, confeſſes vicarage of O. void by W.'s acceptance of vicarage of L. and that plaintiff, within ſix months after the ſaid vacation, preſented ſaid J. to him defendant (then and yet ordinary) to be ad mitted; but further ſays, that by the eccleſiaſtical laws every ordinary ought to have twenty-eight days probation of every clerk that is preſented before he is admitted and inſtituted; and becauſe defendant knew not (when ſaid J. was preſented) whether he was capable of being admitted, he made enquiry of his abilities, and having within twenty-eight days ſatisfied himſelf thereof on the preſentation of plaintiff he did admit him to the vicarage of O. and cauſed him to be inſtituted and in ducted therein, not having any notice of plaintiff's writ. Plaintiff demurs ſpecially, for that rejoi nder is a departure from plea in bar and joinder, *Bro. Vad.* 347, &c.

Plea, biſhop diſclaims all title but as ordinary, and chapter cla ms title in the right of his college, and ſeiſed of advowſon in groſs preſents, and after makes a grant of firſt avoidance, grantee grants over, grantee preſents avoidance by death of grantee's incumbent; chapter preſents, and traverſes grant to M. N. *modo et forma*, *Mo. Intr.* 292. &c. Clerk ſays he is parſon imparſonee, and pleads title in the chapter, &c. as above, and traverſes as before. Judgment againſt the biſhop, and *ceſſet executio*, &c. *Ibid.* 295. Replication, proteſting, and iſſues on the traverſes. Biſhop claims nothing but as ordinary, and ſays that the church is a benefice with cure of ſouls, and that plaintiff, ſince death of O. preſented to him Hodder, who was a perſon inſufficient in literature, &c. for which he refuſes to admit, and after he gives notice to plaintiff, &c. and he had not preſented any other perſon to him, for which he collated defendant, and defendant, *incumbent*, pleads like plea. Replication to biſhop's plea, ſays, that Hodder, at the time of preſentation, &c. was and is vicar of U. and after was examined to obtain epiſcopal ordination, &c. and like to incumbent's plea. Rejoinder, biſhop maintains plea. Like by incumbent. Surrejoinder, maintains replication, and take iſſue ſeparately. Demurrer by biſhop and incumbent, and joinder by plaintiff, 2. *Lut.* 1094. *Vide* 3 *Lev.* 313.

Plea by biſhop, that the guardians of the ſpiritualities granted to him letters-patent of diſpenſation to hold two benefices in *commendam*, and church void by ſtatute of pluralities came to the kind by *lapſe*, who preſented, and traverſes avoidance in the count. Plaintiff prays *over* of letters of diſpenſation, of confirmation, and preſentation. Demurrer, *Wi. Ent.* 635. *Vide Hob.* 140.

Plea by defendant, confeſſes ſeiſin of T. S. and preſentation of B. but that T. S. ſeiſed by will deviſed advowſon to defendant T. earl of A. in fee, and died; church void by death of D. ſix months; L. the then ordinary collated by lapſe; R. S. died, and the earl preſented defendant H. and traverſes deviſe to plaintiff C. Judgment againſt the biſhop, and iſſue on the traverſe, *Bro. Vad.* 362.

By biſhop, claims as ordinary R. H. infant, by guardian, confeſſes that E. H. was ſeiſed *prout*, &c. and being ſeiſed mortgaged the advowſon to T. M. for payment of one hundred and three pounds, and not paid; eſtate became abſolute, and only r.deemable by paying principal and intereſt; that E. H. afterwards made his

his will, and gave the advowſon, &c. to Elizabeth his wife, and her ſons, by the ſaid Edward; that afterwards T. M. on payment of the money by E. H. granted to E. H. and his heirs, the ſaid advowſon; E. H. again was ſeiſed, and had iſſue by Elizabeth the ſaid R. H. and afterwards he and his wife died, and R. H. became ſeiſed in tail by virtue of the aforeſaid deviſe, and it belongs, &c.; M. H. the other infant, by guardian, confeſſes as above, and that E. H. being ſeiſed, a fine was levied between J. M. and E. H. of the ſaid advowſon to the uſe of the ſaid T. M. and his heirs; that T. M. died ſo ſeiſed, and advowſon deſcended to M. H. as his couſin and heir, and traverſes that E. H. died ſeiſed. Demurrer by R. H. the incumbent. Judgment againſt the ordinary. Replication to plea of R. H. that E. H. did not deviſe advowſon, *prout*, and iſſue; alſo iſſue on traverſe of M. H. and joinder in demurrer, with incumbent, 3. *Lev.* 138, &c.

Plea by archbiſhop, that he at the time of the avoidance of the church was biſhop of London and ordinary, and claims nothing as ordinary, *Keil.* 54.

Biſhop claims as ordinary. Replication, that church was void by death of T. and within ſix months, to wit, &c.; plaintiff preſented J. whom the biſhop refuſed to admit. Rejoinder, that another defendant before preſented another clerk, whereon the biſhop refuſed plaintiff's clerk, and award of *jure patronatus*, by which church became litigious, 33. H. 6. 13. Like pleas and replications. Rejoinder, that another defendant preſented another clerk, whereon the biſhop awarded a *jure patronatus*, and before executing thereof plaintiff procured an inhibition to him by the archbiſhop; traverſing that he refuſed to admit plaintiff's clerk after a certain day. Surrejoinder, that he refuſed after the day. Repleader thereon awarded, and judgment for the biſhop on his plea to the writ; and becauſe the biſhop collated to the church by lapſe. Judgment for plaintiff for two years value, *Ra.* 509.

Plea by the biſhop, that church is within his dioceſe, and void on a certain day, and the other defendant preſented to him his clerk, and plaintiff preſented another, and church being litigious, biſhop awarded a *jure patronatus*, and jury thereon prayed a day to give their verdict, before which plaintiff's clerk obtained an inhibition from archbiſhop and biſhop, afterwards collated by *lapſe*. Replication, that verdict was for plaintiff, and biſhop afterwards refuſed to admit, and *ſo hindered*. Rejoinder, that jury did not agree, but prayed a further day, and traverſe verdict for plaintiff. Iſſue thereon. Plea by N. that he did not hinder, *Ra.* 512. *Vet. Int.* 73.

That church being void, plaintiff within ſix months preſented; biſhop on examination found clerk to be an obſtinate ſchiſmatic, and ſo refuſed him whereon he gave notice to plaintiff, and preſented by *lapſe*, 5. *Co.* 57. *Her.* 547.

That he collated by *lapſe*. Replication, that on ſuch a day he preſented and biſhop refuſed. Rejoinder, on examination he found him heterodox. Notice to plaintiff. Surrejoinder on the notice, *Co. Ent.* 520. By archbiſhop, ordinary, that he collated by *lapſe*. Replication, that plaintiff on ſuch day preſented, and defendant refuſed, &c. Demurrer, *Hob.* 197.

By biſhop, that archbiſhop granted licence to hold *in commendam*; traverſes avoidance in the count. Demurrer, *Co. Ent.* 521. *Hob.* 141.

Of an abbey, that on avoidance prior and convent were uſed to elect an abbot, and certify to the biſhop, who examined into the election, and admits the abbot elect, *Ra.* 496. *Vet. Int.* 71.

Plea by one defendant at the ſuit of the king, that he did not hinder. By biſhop, that he, ſeiſed of advowſon in groſs in right of his biſhopric, collated J. and afterwards collated another. Defendant traverſes that S. was admitted on the preſentation of R. 2. and that E. was admitted on the preſentation of H. 5. Like plea by clerk, Replication, proteſting that E. was not admitted on the preſentation of H. 5.; for plea, that S. was admitted on the preſentation of R. 2. *Ra.* 528.

That

That archbiſhop, ſeiſed of rectory, to which advowſon of vicarage is appendant, and that M. preſented by uſurpation, and it now belongs to archbiſhop to preſent. Traverſe of ſeiſin of advowſon in groſs. Demurrer, *Co. Ent.* 495.

PATRONS AND CLERKS.

Plea in bar by Univerſity of Cambridge, confeſſes ſeiſin of W. lord Petre, and all ſeiſins and deſcents in count pleads 23. Eliz. c. 1. of recuſancy and 29. Eliz. c. 6. conviction by proclamation. &c. and Jac. 1. c. 5; preſentation is given to the univerſity, &c.; that plaintiff being popiſh recuſant, convict, and church void by death of Barnes, whereby chancellor, &c. preſented W. W. clerk. Averment, that conviction is in force not reverſed. Plea in abatement by defendant W. incumbent recites the acts, and that plaintiff after original, and before that day, &c. to which defendant had ſpecial imparlance, was convict of popiſh recuſancy at the general quarter ſeſſions, &c. Replication to plea of univerſity, general pardon by Jac. 2. by letters patent, with averment that he is not excepted, &c. and to plea of incumbent plaintiff demurs, and for cauſes; firſt, defendant makes no defence; ſecond, does not produce the record of conviction, or any tenor thereof. Demurrer to replication by univerſity, and incumbent joins in demurrer with the other plaintiff; alſo the plaintiff joins in demurrer with the univerſity. Judgment for the plaintiff, that the plea of incumbent is bad, and *reſpondeas ouſter* awarded, 2. *Lut. Ent.* 1100. 1112, &c.

Plea in chief of defendant W. confeſſes part of the Count, and pleads 3. Jac. 1. giving authority to juſtices of aſſizes, and of oyer, &c. to determine offences, &c. and 3. Jac. 1. c. 5. by which preſentation is given to univerſity. Conviction of plaintiff at general gaol delivery, proclamation, and that plaintiff did not render himſelf to the ſheriff before next aſſizes. Record of default and church void during the conviction, *per quod, &c.* Replication ſame in effect with replication to plea of univerſity, that pardon aforeſaid, and letters patent enrolled in chancery, and exemplification produced under the great ſeal. Demurrer and joinder, *Wi. Ent.* 1112, &c. Judgment for plaintiff, *Vide* 3. *Lev.* 332, &c.

Plea by incumbent confeſſes deviſe by E. R.; preſentation of C. the father by M.; death of M.; deſcent of C. ſon of C. and conveyance to M. but ſays that before conveyance by M. to plaintiff C. the ſon died, and church void, and M. preſented him, &c. Traverſes that church was void at any time after conveyance to plaintiff. Replication, that church became void during his ſeiſin, &c. and that C. preſented by uſurpation on him the defendant D. and plaintiff brings original, &c. within ſix months, &c. traverſes that defendant is parſon, &c. on the preſentation of M.; and this, &c.; wherefore he prays judgment if J. B. ought to be admitted to traverſe title of W. Demurrer by incumbent, and for cauſes that plaintiff concludes ill, is double, multifarious, uncertain, wants form, and traverſe is not well introduced, 2. *Lut.* 1128, &c.

Plea by clerk after two proteſtations confeſſes part of declarations, and pleads that advowſon deſcended to Queen Elizabeth, on whom M. preſented by uſurpation three times; deſcent to James on whom plaintiff preſented by uſurpation twice; deſcent to the now king, who preſented defendant. Traverſe that E. 6. granted to lord C. Demurrer ſpecial, *Wi. Ent.* 730. Judgment for plaintiff.

Plea by chancellor, &c. of univerſity of Oxford, patrons proteſting that king was not poſſeſſed, &c. did not grant to C.; for plea confeſſes reſidue of the Count, but further plead that by another act of 3. Jac. the chancellor and ſcholars of the univerſity of Oxford have preſentation to every benefice within certain counties at the time when the patron remained papiſt recuſant convict, whereby chancellor, &c. preſented another defendant clerk. Like plea by clerk. Demurrer ſpecial, *Wi. Ent.* 738. *Vide Hob.* 126. 164. *Wilſ. Rep.* 11.

That there was another prebendary preceding ſeiſed of the advowſon, who granted next advowſon to grantee of defendant by deed confirmed by biſhop, and dean, and chapter

chapter, with a clauſe therein contained, that if next avoidance ſhould not fall he granted next avoidance which is the preſent. Demurrer, *Wi. Ent.* 744.

Plea by clerk, proteſting that the king was not ſeiſed in right of his dutchy of Lancaſter; for plea that the king preſented him, and plenarty of ſix months before original purchaſed. Demurrer, *Wi. Ent.* 751.

Plea by patron and clerk jointly to Count to preſent by turns by the aſſignee of the grantee, confeſs the greateſt part of the Count, and that anceſtors of defendant in turn of the other moiety of the manor preſented by uſurpation the laſt incumbent, and it now belongs to defendant to preſent in his turn. Demurrer ſpecial, *Wi. Ent.* 761.

Plea by clerk, confeſſes part of the Count; pleads that the acre of land to which, &c. deſcended to R. who demiſed to patron who preſented defendant. Traverſe that the laſt avoidance was the next and the firſt after the deviſe. Demurrer by patron to Count, and plaintiff demurs to plea, *Wi. Ent.* 768.

Plea by patron and clerk jointly, that T. ſeiſed of advowſon, deviſed to patron who preſented the other defendant. Traverſes that T. deviſed to plaintiff, and iſſue, *Wi. Ent.* 770. *Vide Wilſ. Rep.* 73.

Plea by patron defendant G. that ſir W. S. did not grant to H. lord D. next avoidance *modo et forma, prout, &c. Bro. Vad.* 340. By defendant B. clerk, prays judgment of the writ, confeſſing the ſeiſin of the queen, and that ſhe preſented P. who was inſtituted and inducted, and the church was a benefice with cure, &c. of the yearly value of 8l.; and P. having that benefice accepted the other of S. whereby the benefice of M. became void; but further ſaith church of M. being void the queen preſented one N. D. who was inſtituted and inducted; and that afterwards the queen granted to ſir C. H. in fee, who granted over to the ſaid A. S. in fee, who granted over to ſir W. S. in fee, and that P. (church being full of D.) was upon the queen's preſentation admitted, &c. and that ſir W. S. died, and deſcent to ſir W. S. his ſon and heir, who granted to J. M. for twenty-one years, grant by him to R. H. and defendant G. all his intereſt therein; church void by reſignation of D. and H. and G. preſented defendant B. who was admitted, inſtituted, and inducted into the ſame. Traverſes church void at the time of the laſt inſtitution of P. Replication, proteſting that D. was never admitted, &c. to the church of M.; for plea takes iſſue on the traverſe, *Bro. Vad.* 344.

Plea by patron, that his father ſeiſed in fee long before plaintiff's father had any thing in the ſaid advowſon died, and deſcent to him; he preſented defendant G. A. and traverſes grant to E. W. and H. *prout, &c.* By defendant G. that he is parſon imparſonee of the preſentation of defendant E. and pleads like plea, traverſing as before. Judgment againſt the biſhop, and writ awarded; and plaintiff takes iſſue on the traverſe in the plea of defendant E. *Bro. Vad.* 359, &c.

By patrons, defendants confeſs ſeiſin of T. lord M. of one moiety, and of the ſaid T. W. of the other moiety, and preſentation of G. H. *prout, &c.*, but that T. S. lord M. demiſed to W. and R. plaintiffs, and to one R. M. the manor of B. to which, &c. for twenty-one years, and R. M. died, and church being void by death G. H. the incumbent, T. W. preſented in his turn R. W. and ſince the church is void by death of ſaid R. W.; and ſaid W. and R. preſented R. G. their clerk. Replication maintains the Count, and traverſes demiſe of the manor to W. K. *prout, &c. Bro. R.* 407, &c.

Plea by incumbent, that he is parſon imparſonee of the preſentation of W. K. and R. B. the other defendants, and confeſs the ſeiſin of T. S. of a moiety as in the Count; but that T. W. ſeiſed of another moiety preſented in his turn G. H. *prout, &c.* and that by an avoidance the other defendants preſent him their clerk, *Bro. R.* 408.

To the plea of one patron R. W. the plaintiff confeſſes the grant by J. S. the father to J. and H. of the next avoidance, but ſays that H. died before the avoidance of the church, and J. ſurvived, and then a fine was levied between the plaintiff and the

the ſaid J. S.; by virtue of which the intereſt of the ſaid J. was ſurrendered to plaintiff, and church void by the death of the laſt incumbent; the plaintiff preſented one S. his clerk and defendant; the ſaid plaintiff and S. unjuſtly hinder; and traverſe that J. died and ſaid H. ſurvived, *prout, &c. Bro. R.* 413.

That the king, having the temporalities of the biſhop in his own hand, preſented to the archdeaconry, and ſo had the turns, &c.; and becauſe biſhop claims nothing, unleſs as ordinary. Judgment, that the king have preſentation for this turn, *Ra.* 531.

That A. tenant in common of the advowſon, preſented by uſurpation in the turn of B. the other tenant in common; A. granted next avoidance to defendant, and traverſe that the latter clerk was preſented by B. *Co. Ent*, 497.

Plea by one defendant, he did not hinder; the other ſays that biſhop collated P. to the hoſpital, and afterwards the king, having the temporalities in his own hand, preſented S. who reſigned, and another biſhop collated E. to the hoſpital, on whoſe death it is now vacant. Traverſe that the hoſpital was vacant whilſt the temporalties of the biſhop were in the king's hand, *Ra.* 531.

By patron, confeſſing part of the Count. Plea, that J. before his conviction granted to defendant next avoidance, who preſented the other defendant to the avoidance. By clerk, that J. was ſeiſed of the advowſon in groſs, and granted it to defendant in fee. Traverſe that advowſon belonged to the manor. Iſſue, and demurrer to plea of the patron, *Wi. Ent.* 773. *Hob.* 126. *Wilſ. Rep.* 11.

Plea by clerk, confeſſing part of the Count, and that queen Mary by uſurpation preſented B. whereby he was ſeiſed of the advowſon in groſs that deſcended to the king, who preſented defendant. Replication, that long before the preſentation of B. the biſhop N. by uſurpation granted to T. who being *fautor religionis* was deprived, and the queen preſented B. againſt whom the commiſſioners for eccleſiaſtical affairs made a decree, and reſtored T. who reſigned, and the leſſee for years preſented as in the count. Demurrer, *Wi. Ent.* 787.

By patron, that his grandfather was ſeiſed of advowſon, and by indenture, covenanted that after his own death and that of his wife the advowſon ſhould remain to the ſon, who demiſed to T. for two hundred years, and by ſeveral aſſignments and conveyances the advowſon came to defendant. Traverſe that A. died ſeiſed. Like plea by clerk. Replication, plaintiff after oyer demurs to both pleas, *Wi. Ent.* 798. Judgment for plaintiff, *Wi. Rep.* 35. 39.

BY BISHOPS, PATRONS, AND CLERKS.

Biſhop claims nothing as ordinary. Clerk takes iſſue, 2. *Bro.* 222. *Co. Ent.* 265.

Demurrer by biſhop to count. Plea by clerk, 2. *Bro.* 236. *Wi. Ent.* 663. *Co. Ent.* 492.

Biſhop claims as ordinary. Judgment thereon, with *ceſſet executio* till plea againſt the other defendant be determined, 1. *Bro*, 301. 2. *Bro.* 222. 225. *Wi. Ent.* 624. 627. 649. *Clif.* 619 625. 2. *Mo. Int*, 295. 2. *Lut.* 1092. *Co. Ent.* 491. By guardians of the ſpiritualities of archbiſhop of York, 1. *Bro.* 299. Biſhop claims as ordinary. Patron and clerk *ſeverally* plead like plea, 2. *Bro.* 219. *Wi. Ent.* 644. 649. *Clif.* 615. 2. *Mo. Int.* 293. 2. *Lut.* 1078. *Ra.* 526. *Co. Ent.* 506. 510, &c. 516. *Keil.* 54. By biſhop and clerk, 2. *Lut.* 1095. *Co. Ent.* 475. 487. 495.

Biſhop claims as ordinary. Patron and clerk *join* in plea, *Pl. Gen.* 475. *Wi. Ent.* 691. 712. *Co. Ent.* 500. *Her.* 599. Biſhop and clerk join in plea, 1. *Bro.* 296. *Wi. Ent.* 712.

Biſhop claims as ordinary. Patron confeſſes the action. Clerk pleads to iſſue, 1. *Bro.* 300. Biſhop claims as ordinary. One defendant and clerk *ſeverally* plead like plea. The other defendant pleads another plea, *Ra.* 509. Biſhop, patron, and clerk ſeverally plead title, *Co. Ent.* 497.

Plea by one defendant, with traverſe. Plea by clerk, that he is parſon imparſonee of the preſentation of defendant, which belongs to him for the cauſe alledged, with the like traverſe, *Ra.* 513. *Co. Ent.* 482.

Biſhop died after the iſſuing of the writ and before day in bank. Plea by clerk, 2. *Bro.* 201.

Biſhop claims as ordinary. Patron and clerk ſeverally plead in bar, *Wi. Ent.* 624. 627. 630 773. Patron and clerk join in plea, *Ibid.* 691. 712. 744. 761. 770. Biſhop claims, &c. Clerk demurs to count, *Ibid.* 743. Biſhop claims, &c. Patron demurs. Clerk pleads, *Ibid.* 768. Biſhop claims, &c. Clerk pleads, *Ibid.* 787.

SIMONY, PLEA OF.

Plea by clerk ſimony in bar, *Clif.* 607.

That clerk preſented by plaintiff obtained another church by ſimony, and ſo was not capable of holding another benefice. Replication on the ſimony, *Ra.* 532.

Bar by ſtatute againſt ſimony, and demurrer, *Co. Ent.* 476.

JUDGMENTS FOR AND AGAINST THE KING.

Judgment for the king on plea that they did not hinder, *Wi. Ent.* 710.

For the king on plea by archbiſhop as ordinary, with *ceſſet executio* until, &c. On plea of patron in abatement, to which attorney general demurs, 3. *Lev.* 15. And afterwards judgment of *reſpondeas ouſter*, *Ibid.* 16.

Biſhop claims as ordinary, the other defendants confeſs action at the ſuit of the king, 2. *T. Jud.* 831. 192. *Ra.* 530.

Judgment for the king on *quare impedit* between common perſons, for that it appears that the king hath the right of preſentation for ſimony, and clerk not admitted on the preſentation of the king although ſo pleaded, 2. *T. Jud.* 176.

For the king at aſſizes on verdict for him there, 2. *T. Jud.* 176. In C. B. on verdict, *Ibid.* On demurrer to plea of biſhop, and like to replication of clerk, *Ibid.* 179. On demurrer to declaration, writ awarded to the guardian of the ſpiritualities, the biſhop's ſeat vacant by the death of biſhop after judgment againſt him, *Ibid.* 178. Againſt the king on trial at bar, *Ibid.* 179.

For the king on confeſſion of action, *Ra.* 530. On demurrer, *Co. Ent.* 494. 516, &c. *Jud.* 112. To the bar for one defendant, and replication to the other, *Co. Ent.* 496. On trial at bar, *Ibid.* 485.

For the king where title is found for him in a ſuit between others, and where clerk confeſſes that his plea as parſon imparſonee was falſe, *Hob.* 194.

For the king where plaintiff makes default at *niſi prius*, *Ra.* 531.

FOR THE PLAINTIFF OR DEFENDANT.

On *non informatus*, *Wi. Ent.* 656. *Pl. Gen.* 471. 2. *T. Jud.* 182. *Ra.* 222. *Co. Ent.* 520. *Her.* 555. By *nil dicit* where plaintiff *remittitur damna*, *Co. Ent.* 509. Confeſſion of action and judgment, 1. *Bro.* 300, &c. *Wi. Ent.* 663. 2. *T. Jud.* 182. And *remittitur damna*, *Ra.* 500, &c. 504. 520. *Vet. Int.* 131. For plaintiff on demurrer, *Wi. Ent.* 732. 2. *Lut.* 1111, &c. *Co. Ent.* 505.

For plaintiff on plea of biſhop claiming as ordinary, *Co. Ent.* 624. 627. 1. *Bro.* 301. *Co. Ent.* 491.

Judgment to recover preſentation againſt one only where plaintiff firſt recovered againſt biſhop and patron, 1. *Bro.* 301. And againſt biſhop by default. *Jud.* 110.

For plaintiff at aſſizes on verdict againſt clerk where plaintiff firſt recovered againſt patron and biſhop, *Bro. Vad.* 316. And writ to the ſheriff of plenarty of the church.

For plaintiff on verdict at aſſizes, *Wi. Ent.* 777. For plaintiff, *Hob.* 327. *Jud.* 110. By defendant, confeſſion of action, with a *relicta verificatione*, 1. *Bro.* 301. By biſhop and clerk, 2. *T. Jud.* 190.

Judgment

Judgment after *cur. adv. vult.* on demurrer to a plea pleaded to a writ of deceit brought upon a recovery in *quare impedit* at the aſſize, with a writ awarded to ouſt the clerk in poſſeſſion, and reſtore the former clerk ouſted by recovery, *Bro. Vad.* 301.

Verdict for plaintiff, and judgment that plaintiff recover againſt chapter and incumbent, and damages to the value, 2. *Mo. Int.* 295. Reciting the former judgment againſt the biſhop, and judgment of writ to the biſhop, *Ibid.* 296.

For plaintiff at aſſizes on verdict for him there found without damages and coſts aſſeſſed, 2. *Mo. Int.* 189. Verdict and judgment for plaintiff at aſſizes, *Ibid.*

Judgment for defendant, plaintiff makes default at aſſizes, 2. *Mo. Int.* 190.

For plaintiff on ſpecial verdict at aſſizes in which plenarty of the church is omitted, whereon inquiſition awarded, and on the return judgment for the value of the church for half a year, 2. *Mo. Int.* 191.

For defendant on certificate by the ordinary of plenarty for ſix months, 2. *Mo. Int.* 192.

For plaintiff on return of writ of enquiry, *Ra.* 507. *Co. Ent.* 490. 5. *Co.* 58. *Vet. Int.* 25. At *niſi prius*, *Ra.* 508. *Co. Ent.* 507. *Kiel.* 57. *Vet. Int.* 74. 1 *Cro.* 423 On plea in abatement of the writ, *Ra.* 524. At *niſi prius* where church is full of the king's clerk pending the plea, *Co. Ent.* 265.

For plaintiff againſt clerk where plaintiff firſt recovered againſt patron and biſhop, *Aſh.* 381. *Non proſ.* before declaration, no writ to the biſhop, *T.* 8. *E.* 3. 45. After imparlance, *Her.* 556.

For defendant at king's ſuit for want of replication, *Ra.* 531. *Vet. Int.* 112. For defendant on demurrer. *Plo.* 503. *Ra.* 498. 503. *Co.* 489. 493. 503.

For biſhop on demurrer to replication of ſpecial hindering, *Ra.* 512.

For defendant where plaintiff *non proſ.* and enquiry of damages awarded, *Ra.* 508. 525. *Vet. Int.* 72. And judgment on enquiry of damages, *Ra.* 508. And *remittitur damna*, *Ibid.*

By two defendants, where only one had the right of advowſon, *Ra.* 508. *Vet. Int.* 71.

Quare impedit againſt biſhop. W. and L. the biſhop and W. come in their own perſons, plaintiff does not. Biſhop makes title, and judgment for him, *Ra.* 501.

Plea by defendant, that plaintiff is outlawed, and does not deny. Defendant an abbot makes title to church appropriated and united, and judgment to hold church as before, *Ra.* 497.

Plaintiff does not Defendant's plea, and judgment for defendant, *Ra.* 515.

For plaintiff on demurrer, *Ra.* 180. *Co. Ent* 505. On two demurrers, 2. *T. Jud.* 180. For defendant on demurrer to plea of biſhop and clerk, *Ibid.* 181. Where plaintiff *remittitur damna*, *Co. Ent.* 505.

For plaintiff on inſufficient plea of defendant without demurrer, *Ra.* 499.

Adjournment, continuance of iſſue, and demurrer. Judgment for plaintiff on demurrer. Continuance of iſſue, 2. *T. Jud.* 181.

On plea of biſhop claiming as ordinary, *Co. Ent* 491. On certificate of biſhop inſtituting clerk, *Ibid.* 499.

Judgment for plaintiff by default on *diſtringas*, *Ra* 504. 507. 525. *Vet. Int.* 110. Againſt one defendant where plea pending againſt the other, *Ra.* 507. Againſt defendant, who makes default in contempt of the court, where plaintiff in the ſame term recovered his preſentation againſt two others, *Ra.* 507. *Vet. Int.* 105.

For plaintiff on trial at bar where plaintiff *remittitur damna*, 2. *T. Jud.* 183. On verdict for value of the church for half a year, *Ibid.* 184. Verdict for plaintiff on *niſi prius* on two iſſues. Judgment for the half year's value. *Ibid.* 185.

Judgment, plaintiff *remittitur damna*, and has a writ to the archbiſhop for biſhop's

ſeat vacant, for that the dean is party, 2. *T. Jud.* 186. For plaintiff on verdict without damages or coſts found, *Ibid.*

Iſſue and demurrer. Special verdict. Plaintiff *nolle proſequi* on verdict, and *remittitur damna*, and judgment to recover the preſentation, *Ibid.* 187. For plaintiff on inquiſition, *Ibid.* 188.

PROCEEDINGS.

Delivery of original writ of record to obtain a *writ of ne admittas*, *Her.* 556.

Warrant of attorney general to demand judgment and execution by the king on verdict, *Her.* 556.

Writ of enquiry of the value of the vicarage awarded on judgment, 1. *Bro.* 301.

Nolle proſequi by attorney general at the ſuit of the king, *Bro. R.* 411. 2. *T. Jud.* 177, &c. *Ra.* 527, &c. *Vet. Int.* 70. *Jud.* 226. *Her.* 556.

Verdict for plaintiff at *niſi prius* where church became full on the king's preſentation pending the writ. Judgment for value of the church for half a year, 2. *T. Jud.* 184.

Pone in *quare impedit* where biſhop was eſſoiged until Oct. Trin. and incumbent had the ſame day, *Bro. Vad.* 338. with the entry thereof, *Ibid.* 390. Againſt the biſhop of L. upon a *plurits venire facias clericum* where biſhop ſent not the writ, and entry thereof, *Ibid.* 389.

Pone at king's ſuit upon ſummons and entry, *Bro. Vad.* 389. With adjournment, *Ibid.* 390. After eſſoin againſt one and *diſtringas* againſt another, *Ibid.* 391. with entry thereof.

Entry of *pone* after ſeveral eſſoins, with the ſame day to others, as alſo ſeveral adjournments of the term, *Bro. Vad.* 392. with a *diſtringas* in the ſame writ, and the entry, *Ibid.* 393.

Writ awarded to archbiſhop of York, ſeat being full, where the guardians of the ſpiritualities archbiſhop's ſeat vacant were parties, 1. *Bro.* 299.

Alias ſummons in *quare impedit*, *Clif.* 601.

Entry of original writ, *pone*, and appearance. *Clif.* 601.

Writ to biſhop to admit clerk on *non proſ. Clif.* 607. To admit clerk on death of plaintiff, *Ibid.* To certify of whoſe preſentations, *Ibid.* 610. and return. To remove clerk, *Ibid.* 613. 2. *Mo. Int.* 296.

Inquiſition of the true value of church, *Clif.* 614. Award of value, 2. *T. Jud.* 191. Return by biſhop, that he admitted plaintiff's clerk according to the writ, *Ibid.* 192. Enquiry of value and damages awarded on judgment, *Ra.* 502. 510.

Alias writ to admit clerk awarded, *ſubpœna*, *Ra.* 502.

Plaintiff after writ continued on judgment for guardians, &c. *remittitur damna*, *Jud.* 157.

ENTRIES, &c.

A. W. mother and guardian of J. W. patron, within age of fourteen (and ſeiſed of advowſon of church in groſs with cure of ſouls), made ſimoniacal contract with C. G. incumbent, that he ſhould pay A. two hundred and fifty pounds when J. ſhould preſent C. to the church, *B. R.* 419. 2. *Lut.* 1086. 3. *Lev.* 12.

Several pleas in bar by two infants, *Lev. Ent.* 138.

Biſhop claims nothing as ordinary. Judgment againſt him. Patron confeſſes action, and clerk with a *relicta verificatione* confeſſes action. Judgment againſt them, and execution as appears by the roll, 1. *Bro.* 301.

Judgment againſt the biſhop, and writ awarded. Iſſue upon the other defendant's traverſe. *Venire* awarded. Plaintiff makes default to plaintiff. C. dies after the laſt continuance, and W. prays a new writ of *venire facias*. Defendant demurs, and ſays that writ of *quare impedit* abates by death of plaintiff C. without iſſue. Plaintiff joins in demurrer. Afterwards defendant comes and pleads Releaſe

Releaſe by plaintiff to defendant after the laſt continuance. Plaintiff imparls, and after makes default. Judgment for defendant by default, with remiſſion of damages, *Bro. Vad.* 364, &c.

An aſſize of *darrein preſentment*, *Clif.* 611.

Death of the king at Weſtminſter, and does not ſay *diem ſuum clauſit extremum*, *Bro. R.* 410.

Where the government and crown of England after death of Car. 2. late king deſcended to Jac. 2. as brother and heir of ſaid late king, *Clif.* 611.

Incumbent, by certain perſons taking upon themſelves pretended authority, by colour of a certain ordinance of lords and commons in parliament aſſembled, was in fact collated, and then recites the ſtatute 12. Car. 2. to continue in poſſeſſion, &c. *Clif.* 604. 620.

Several iſſues joined to be tried by men of two counties, and judgment for plaintiff againſt one defendant for a moiety of church, to which there is no anſwer, and afterwards two defendants ſeparately confeſs action, with *reliqua verificatione*. Repleader awarded on the iſſue joined between plaintiff and biſhop, and proceſs continued thereon, for that church is full by collation of biſhop on lapſe, and judgment for biſhop againſt plaintiff, as it appears in another term; and judgment for two years value, *Ra.* 510. 33. *H.* 6. 13.

Count againſt biſhop, that he together, &c. and claims nothing but as ordinary. Judgment againſt him, and execution, for that plea againſt the others is determined, as appears by the ſame roll in which judgment is immediately entered by default againſt patron on *diſtringas*, and death of clerk returned, *Her.* 545.

Plaintiff as to moiety of church, whereof defendant ſays nothing in bar, prays judgment, 33. *H.* 6. 13. *Ra.* 510.

Clerk at the concluſion of his plea on the title ſays that he *detulit* the preſentation to the biſhop, and *ipſum laboravit ad inſtituendum, &c.* which are the ſame hinderings, 33. *H.* 6. 13.

Iſſue joined at the king's ſuit. W. for the king informs the court that defendant intends to ſue the preſentee of the king in *curiâ romanâ*, and prays that defendant thereon may take the oath and find ſecurity, and defendant being preſent agreed to do it. Bail thereto, *Ra.* 528.

Clerk admitted and inſtituted to the preſentation without alledging induction, *T.* 5. *E.* 3. 12. Admiſſion on preſentation and plenarty for ſix months and more, *Co. Ent.* 471, &c.

Diſpenſation to the biſhop to take benefice *in commendam*, *Co. Ent.* 473.

WRITS.

Writs awarded on judgments to biſhop, *Ra.* 504. 507. 521. 528. *Co. Ent.* 507. Dioceſan where archbiſhop is party, *Ra.* 503. Cardinal ordinary of the place, *Ibid.* 507. Metropolitan where biſhop died after laſt continuance, *Ibid* 500. *Vet. Int.* 131. Guardian of ſpiritualities where biſhop died after judgment, *Co. Ent.* 494. Archbiſhop where biſhop is party, *Ra.* 521. 528. *Co. Ent.* 498. *Vet. Int.* 26. *Her.* 555. During vacancy, *Dy.* 328. Vicar general of archbiſhop, *Ra.* 514. Archbiſhop of C. where archbiſhop of Y. is party, *Co. Ent.* 496.

Archbiſhop defends, who was ordinary of the place in the time of the vacancy of the church, and afterwards tranſlated where prior biſhopric is vacant, *Kiel.* 54.

Writs awarded to biſhop to certify admiſſion of clerks, *Ra.* 498. 533. *Co. Ent.* 498.

PRESENTATIONS.

Preſentation by king in right of ward, *Wi. Ent.* 746. 758. 765. *Vet. Int.* 112. For lunacy, *Wi. Ent.* 629. *Lapſe*, 2. *Bro.* 640. *Wi. Ent.* 640. 709. 747. *Ro. Ent.* 375. 384. *Pl. Gen.* 487.

Parſon of church created biſhop, and queen by virtue of her prerogative preſented, *Wi. Ent.* 767. 3. *Lev.* 144. By grantee of the king for outlawry in debt, *Wi. Ent.* 663. By being outlawed for felony, *Vet. Int.* 27. Huſband and wife

seiſed in right of his wife, *Wi. Ent.* 708. 770. *Vet. Int.* 111. 27. Two huſbands and wives, &c. *Her.* 544.
By uſurpation on the king, *Wi. Ent.* 666. 692. By biſhop collating on *lapſe*, *Ibid.* 708.
That it belongs to plaintiff ſon and heir of the eldeſt ſiſter to preſent, for that ſhe and other parceners could not agree, *Her.* 547.

ADVOWSON APPENDANT AND IN GROSS.

Advowſon of church belongs to the manor, *Ra.* 500. 504. *Co. Ent.* 264. 468. 498. *Her.* 28. To fourth part of the manor, *Ra.* 504. Moiety, *Ibid. Vet. Int.* 110. Two parts of advowſon to one manor, and third to another. *Co. Ent.* 485. *Dy.* 299. Third part to preſent in third term belonging to third part of manor, *Her.* 548.
Advowſon of moiety belongs to manor, and other moiety in groſs and preſentation to entire church, *Ra.* 509. To eleven ox-gangs of land, *Ibid.* 516. *Vet. Int.* 111. To one acre, *Ibid.* Advowſon of abbey belonging to manor, *Ra.* 496.
Priory in marſhes of Wales to caſtle, *Her.* 545. Hoſpital to manor, *Dy.* 300. Chapel, *Ra.* 636. Vicarage to rectory, *Co. Ent.* 62. 495. 520. *Her.* 553. With chapels annexed to rectory, *Co.* 639.
Advowſon in groſs, *Ra.* 497. Of moiety, *Co. Ent.* 491. Donation of church appendant, *Kiel.* 53.
Plaintiff ſeiſed of one acre of land in C. and advowſon of church of the ſame vill, *Ra.* 499.

CHURCH VOID.

By death, *Ra.* 497. 504. *Co. Ent.* 475. Reſignation, *Ra.* 504. 514. 518, 519. *Co. Ent.* 264 473. 496. 500. *Her.* 545. Deprivation, *Ra.* 497. 500. 503. *Co. Ent.* 471. 486. 507. *Plo.* 493, *Vet. Int.* 111. *Her.* 28. Privation, *Co. Ent.* 480. 498. *Dy.* 292. Deprivation for cauſe of matrimony, and to favour religion, *Co. Ent.* 487. 5. *Co.* 102. *Dy.* 133.
By ceſſion, and accepting another benefice without qualification, *Co. Ent.* 492. 502. *Her.* 554. Not reading articles, *Ibid.* Of prebend by electing prebendary to be dean, *Ra.* 531.

QUARE NON ADMISIT.

Count thereon where biſhop refuſed to admit plaintiff's clerk on two writs of judgment in *quare impedit* and king's letters under his privy ſeal. Plea, that biſhop awarded a *jure patronatus* on the writ delivered, and plaintiff requeſted a month's time, and afterwards did not come, *per quod* defendant preſented by *lapſe*, and traverſes delivery of the writ. Replication, that he requeſted expedition of the biſhop, and traverſes requeſting time, *Ra.* 534. *Vet. Int.* 183.
Enquiry of damages on judgment by *nil dicit*, *Ra.* 535.

REAL ACTIONS.

PARTITION.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and ſo forth, to the ſheriff of Derbyſhire, greeting: If B. B. and T. B. ſhall give you (ſurety or pledges) that their writ ſhall be proſecuted, then ſummon, by good ſummonſes, W. B. B. B. the younger, T. B. T. S. and Elizabeth his wife, A. B. Rachael B. and D. B. that they be before our juſtices at Weſtminſter in eight days of the Purification of the Bleſſed Virgin Mary to ſhew wherefore whereas the ſame B. S. W. B. F. Elizabeth, Ann, Rachael, and D. hold together and undivided one meſſuage, one barn, two ſtables, one garden, one orchard, and twenty-five acres of meadow land for all manner of cattle, with the appurtenances, in Hilton, the ſaid W. B. T. Elizabeth A. R. and D. deny partition thereof to be made between them according to the form of the ſtatute in ſuch caſe made and provided, and unjuſtly permit not the ſame to be done, and contrary to the form of the ſaid ſtatute as they ſay, and have you there the ſummonſes and this writ. Witneſs ourſelf at Weſtminſter, the twenty-third day of January, in the thirty-ſecond year of our reign. Original writ, 2. Blac. Rep. 1134.

JACKSON.

Derbyſhire, to wit.

Pledges to proſecue { JOHN DOE and RICHARD ROE.

Summoners of the within-named W. B B. B. T. B. T. S. and Elizabeth his wife, A. B. Rachael, and D. B. are,

JOHN D. FOWLER,
and
CODWELL WESTROPE.

The anſwer of
JOHN BROADHURST, Eſq.
Sheriff.

Hilary Term, 32. Geo. III.

DERBYSHIRE, to wit. Defendants were ſummoned to anſwer unto plaintiffs of a plea wherefore whereas the ſaid B. B. the elder, Samuel, and the ſaid W. B. B. B. the younger, T. B. T. S. and his wife, in right of the ſaid E. A. R. and D. hold together and undivided one meſſuage, &c. &c. [as in the writ], with the appurtenances, in Hilton, the ſaid W. B. B. B. the younger, Declaration in C. B.

T. B. T. S. and E. his wife, A. R. and D. deny partition thereof to be made between them according to the form of the ſtatute in ſuch caſe made and provided, and permit not the ſame to be done, unjuſtly, and contrary to the form of the ſtatute, &c.: And whereupon the ſaid B. B. and S. by J. F. their attorney, ſay, that whereas they and the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, in right of the ſaid E. A. R. and D. hold together and undivided the tenements aforeſaid, with the appurtenances, whereof it belongs to the ſaid B. B. the elder, and S. and the heirs of the ſaid S. to have one moiety of the tenements aforeſaid, with the appurtenances, and to the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, in right of the ſaid E. A. R. and D. reſpectively, and their reſpective heirs, it belongs to have the other moiety of the tenements aforeſaid, with the appurtenances, to hold to them in ſeveralty, ſo that the ſaid B. B. the elder and S. of their moiety belonging to them of the tenements aforeſaid, with the appurtenances, and the ſaid W. B. B. B. the younger, T. B. T. S. and Elizabeth his wife, Ann R. and D. of their moiety belonging to them of the tenements aforeſaid, with the appurtenances, may ſeverally approve themſelves, they the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. deny partition thereof to be made between them according to the form of the ſtatute in ſuch caſe made and provided, and permit not the ſame to be done, unjuſtly, and contrary to the form of the ſtatute, whereupon the ſaid B. B. the elder and S. ſay, that they are injured, and have ſuſtained damage to the value of pounds; and therefore they bring ſuit, &c.

Drawn by Mr. Tidd.

This was an amicable proceeding for the benefit of the demandants; if not, it might be proper to have a ſpecial Count, and it ſhould be conſidered whether, as the tenants hold their moiety in common, there ſhould not have been ſeveral writs againſt them. (*See* Browal. 157.)

Plea by confeſſion of infants by guardian.

[Copy the declaration to the end, and proceed as follows]: And the ſaid T. S. and E. his wife, by J. F. their attorney, and the ſaid W. B. B. B. the younger, T. B. A. R. and D. by O. P. who is admitted by the court of our lord the king now here to proſecute and defend for the ſaid W. B. B. B. the younger, T. B. A. R. and D. who are reſpectively infants within the age of twenty-one years, as the guardian of the ſaid W. B. B. B. the younger, T. B. A. R. and D. come and defend the force and injury when, &c. and ſay that they cannot deny the aforeſaid action of the ſaid B. B. the elder and S. nor but that partition ought to be made between them and the ſaid B. B. the elder and S. of the tenements aforeſaid, with the appurtenances, in form aforeſaid; and they freely conſent that partition thereof may be made between them, &c.: Therefore it is conſidered that partition be thereof made between the ſaid B. B. the elder and S. and the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D.

Judgment.

of

of the tenements aforeſaid, with the appurtenances; and it is commanded to the ſheriff that in his proper perſon he go to the tenements aforeſaid, with the appurtenances, and there, in the preſence of the parties aforeſaid, by him to be forewarned, if they ſhall be willing to be preſent, the tenements aforeſaid, with the appurtenances, by the oath of good and lawful men of his county, reſpect being had to the true value of the ſaid tenements, with the appurtenances, he cauſe to be divided into two equal moieties, and one moiety thereof he cauſe to be delivered and aſſigned to the ſaid B. B. the elder and S. and the other moiety thereof to the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. to be holden in ſeveralty, ſo that neither the ſaid B. B. the elder and S. nor the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. may have more than reſpectively belongs to them of the tenements aforeſaid, with the appurtenances; and that the ſaid B. B. the elder and S. of their moiety belonging to them of the tenements aforeſaid, with the appurtenances, and the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. of their moiety belonging to them of the ſaid tenements, with the appurtenances, may ſeverally approve themſelves; and that that partition by the ſaid ſheriff ſo diſtinctly and openly made he have under his ſeal and the ſeals of thoſe by whoſe oath he ſhall have made the ſame partition, together with the writ of our ſaid lord the king to him thereupon directed, the ſame day is given to the parties aforeſaid here, &c. *Drawn by* MR. TIDD.

The tenants having appeared, muſt confeſs the action.

George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. greeting: Whereas W. B. B. B. the younger, T. B. T. S. and E. his wife, A. B. R. B. and D. B. were ſummoned to be in our court before our juſtices at Weſtminſter to anſwer unto B. B. the elder and S. B. of a plea wherefore whereas the ſaid B. B. the elder and S. and the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, in right of the ſaid E. A. R. and D. hold together and undivided one meſſuage, &c. [as in the original writ] with the appurtenances, in Hilton, the ſaid W. B. B. B. the younger, T. B. T. S. and E. his wife, A. R. and D. denied partition thereof to be made between them according to the form of the ſtatute in ſuch caſe made and provided, and permitted not the ſame to be done, unjuſtly, and contrary to the form of the ſtatute aforeſaid: And the ſaid T. S. and E. his wife, by J. F. their attorney, and the ſaid W. B. B. B. the younger, T. B. A. R. and D. appearing in our ſaid court before our juſtices at Weſtminſter aforeſaid, by O. P. who was admitted by the ſame court to proſecute and defend for the ſaid W. &c. [ſtate the defendant's names] who were reſpectively infants within the age of twenty-one years, as the guardian of the ſaid W. &c. freely conſented that partition thereof might be made between them, whereupon it was conſidered in our ſame court before our juſtices at Weſtminſter aforeſaid

Writ of partition.

Stating the writ.

ſaid that partition ſhould be made between them of the tenements aforeſaid, with the appurtenances; therefore we command you, that taking with you twelve good and lawful men of the neighbourhood of Hilton aforeſaid, by whom the truth of the matters may be the better known, you go in your proper perſons to the tenements aforeſaid, with the appurtenances, and there, in the preſence of the parties aforeſaid, by you to be forewarned if they ſhall be willing to be preſent, the ſame tenements, with the appurtenances, by the oath of the ſaid twelve good and lawful men, reſpect being had to the true value of the tenements aforeſaid, with the appurtenances, you cauſe to be divided into two equal moieties, and one moiety thereof you cauſe to be delivered and aſſigned to the ſaid B. B. the elder and S. and the other moiety to the ſaid W. &c. to be holden in ſeveralty, ſo that neither the ſaid B. B. the elder and S. nor the ſaid W. &c. may have more than reſpectively belongs to them of the tenements aforeſaid, with the appurtenances, and the ſaid B. B. the elder and S. of their moiety belonging to them of the tenements aforeſaid, with the appurtenances, and the ſaid W. &c. of their moiety belonging to them of the ſaid tenements, with the appurtenances, may ſeverally approve themſelves, and that that partition by you ſo diſtinctly and openly made you have here from the day of the Holy Trinity in three weeks under your ſeal and the ſeals of thoſe by whoſe oath you ſhall have made that partition, and have you there the names of thoſe by whoſe oath you ſhall have made the ſame partition, and this writ. Witneſs Alexander lord Loughborough, at Weſtminſter, the day of in the thirty-ſecond year of our reign.

Drawn by MR. TIDD.

Clif. 564. Bro. R. 253. Off. Br. 153.

Sheriff's return to the writ of partition, which muſt be recited verbatim.

[Copy the declaration and judgment for a partition, and proceed as follows]: At which day came here as well the ſaid B. B. the elder and S. by their attorney aforeſaid, as the ſaid T. S. and Elizabeth his wife by their attorney aforeſaid, and the ſaid W. B. B. B. the younger, T. B. A. R. and Dorothy, by their guardians aforeſaid; and the ſheriff, to wit, Hugh Bateman, eſquire, ſheriff of Derbyſhire aforeſaid, now here returns a certain partition, made by and before him the ſaid ſheriff, between the parties aforeſaid, of the tenements aforeſaid, with the appurtenances, by virtue of the writ aforeſaid, by the oath of twelve good and lawful men of his county, which partition follows in theſe words, to wit, Derbyſhire to wit: J. Hugh Bateman, eſquire, ſheriff of the county aforeſaid, by virtue of a writ of our lord the king to me directed, and to this indented partition annexed, in my own proper perſon, this twentieth day of June, in the thirty-ſecond year, &c. and A. D. 1792, taking with me W. E. &c. (the twelve men of his county) twelve good and lawful men of the neighbourhood of Hilton, in my county, and in the preſence of B. B. the elder and S. B. the plaintiffs in the writ named, and alſo in the preſence of William

William B. Benjamin B. the younger, Thomas B. Thomas S. and Elizabeth his wife, Ann B. Rachael B. and Dorothy B. the defendants in the ſaid writ, and in the preſence alſo of W. Whitmore in the ſaid writ named, came to the tenements and the appurtenances in the ſaid writ named, and thereupon the oaths of the ſaid jury, reſpect being had to the true value of the ſame tenements, with the appurtenances, cauſed the ſame tenements, with the appurtenances, to be divided into two equal moieties, and one moiety thereof, that is to ſay, all that piece or parcel of land being the weſtwardly part of a certain cloſe called Hargaſterſtead, containing by eſtimation twelve acres, three roods, and thirty-two poles, alſo all that cloſe called the Farfield, containing by eſtimation ſeven acres, two roods, eight poles, alſo all that cloſe called Smith Furlong, containing by eſtimation two acres, three roods, and eighteen poles, alſo all that cloſe called the Town Cloſe, containing by eſtimation one acre and three roods, and alſo all that cloſe called the Poor Cloſe, containing by eſtimation three acres and two roods, which ſaid laſt-mentioned cloſe is for ever after to continue chargeable with and liable to the payment of one pound a year to the poor of Hilton aforeſaid, and alſo to the payment of ten ſhillings a year for the uſe of the charity ſchool at Hilton aforeſaid, I the ſaid ſheriff, on the ſame twentieth day of June, in the year aforeſaid, cauſed to be delivered and aſſigned to the aforeſaid B. B. the elder and Samuel B. in the ſaid writ named to hold to them in ſeveralty, according to the form and effect of the ſame writ, and as I am by the ſaid writ commanded, which moiety of the ſaid tenements, with the appurtenances, in the ſaid writ ſpecified, was delivered and aſſigned to the ſaid B. B. the elder and Samuel B. in form aforeſaid; and as to the remaining moiety of the ſaid tenements, with the appurtenances, in the ſaid writ named, that is to ſay, all that dwelling-houſe ſituate and lying at Hilton aforeſaid, with the out-building thereunto belonging, now in the poſſeſſion of the ſaid B. B. the elder, alſo all that piece or parcel of land, &c. &c. &c. [deſcribing it], all which ſaid premiſes hereinbefore mentioned to be divided are ſituate, lying, and being in Hilton aforeſaid, and now are in the ſeveral tenures of the ſaid B. B. the elder, J. A. and T. T. I the ſaid ſheriff, on the ſame twentieth day of June, in the year aforeſaid, cauſed to be delivered and aſſigned to the aforeſaid William B. B. B. the younger, Thomas B. Thomas S. and Elizabeth his wife, A. B. R. B. and D. B. in the ſame writ named, to hold to them in ſeveralty, according to the form and effect of the ſaid writ, and as I am by the ſaid writ commanded, which laſt-mentioned moiety of the ſaid tenements, with the appurtenances, in the ſaid writ ſpecified, was delivered and aſſigned to the aforeſaid William B. &c. in form aforeſaid; in teſtimony whereof, as well the ſeal of me the aforeſaid ſheriff, as alſo the ſeals of the aforeſaid jury, are annexed to this indented partition, dated the day and year firſt above written; therefore it is conſidered that the partition aforeſaid be holden firm and effectual for ever, &c. Judgment.

Drawn by MR. TIDD.

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PARTITION.

(PROCEEDINGS IN.)

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WRIT OF DOWER.

(WITH THE PROCESS.)

GEORGE the Third, to the ſheriff of Norfolk, greeting: We command A. B. C. that juſtly and without delay they render to J. L. widow, who was the wife of R. L. deceaſed, her reaſonable dower which belongs to her of the freehold tenements which were of the ſaid R. L. formerly her huſband in the ſeveral pariſhes of , in the county of Norfolk, whereof ſhe hath nothing, as ſhe ſays, and whereof ſhe complains that the ſaid A. B. and C. unjuſtly deforce her, &c.

Drawn by MR. TIDD.

If the premiſes lie in two different counties, there muſt be two writ of dowers directed to the reſpective ſheriffs of thoſe counties. Theſe writs ſhould be brought againſt all the tenants of the freehold, and are iſſued by the cuſtos. The firſt proceſs upon thoſe writs is a *ſummons* by the ſheriffs to his officers, which may be either ſerved upon the tenants perſonally, or left at their houſes or lands demanded by the writs.

In the latter caſe it is uſual to ſet up a white ſtick or wand upon the premiſes, and by ſtat. 31. Eliz. c. 3. *proclamation* muſt be made at the door of the pariſh church on a Sunday fourteen days at leaſt before the return of the writ. The tenants being ſummoned, either *caſt an eſſoin*, appear, or make default; if they caſt an eſſoin the demandant muſt adjourn till the fifth return; after if they appear at the return of the writ of ſummons, or appear upon the adjournment of the eſſoin, the demandant ſhall account; but if they make default, a *grand cape* iſſues to ſeize the lands and warn the tenants to appear to excuſe their default, which if they do, or the demandant releaſe it, he ſhall count; but otherwiſe he ſhall have final judgment.

Common Pleas, Eaſter Term, 33. Geo. III.

NORTHUMBERLAND, to wit. Mary, otherwiſe Maria Ilderton, widow, who was the wife of Thomas Ilderton, eſquire, deceaſed, by Townley Ward her attorney, demands againſt Charles Ilderton the third part of ten meſſuages, ten barns, ten ſtables, four gardens, four orchards, one water corn mill, two thouſand acres of land, two hundred acres of meadow, two thouſand acres of paſture, two thouſand acres of moor, and two hundred acres of wood land, with the appurtenances, in *the pariſh of Ilderton, in the county of Northumberland*, as the dower of the ſaid Mary, otherwiſe Maria, of the endowment of the ſaid Thomas, heretofore her huſband, whereof ſhe hath nothing, &c. Declaration.

Plea, *ne unques accouple.*

And the ſaid Charles Ilderton, by Richard Stewardſon his attorney, comes and ſays that the ſaid Mary, otherwiſe Maria, ought not to have her dower in this behalf as having been the wife of the ſaid Thomas Ilderton deceaſed, becauſe he ſays *that the ſaid Mary*, otherwiſe Maria, *never was accoupled to the ſaid Thomas Ilderton deceaſed in lawful matrimony*; and this the ſaid Charles Ilderton is ready to verify; and therefore he prays judgment, if the ſaid Mary, otherwiſe Maria, ought to have her dower of the meſſuages and tenements aforeſaid, with the appurtenances.

Replication.

And the ſaid Mary, otherwiſe Maria, by the ſaid Townley Ward her attorney aforeſaid, ſays that ſhe ought not by any thing in the plea of the ſaid Charles above alledged to be barred from having her dower aforeſaid in this behalf, becauſe ſhe ſays *that ſhe the ſaid Mary, otherwiſe Maria, on the ſixth day of September, in the year of Our Lord* 1774, *was accoupled to the ſaid Thomas Ilderton, deceaſed, in lawful matrimony at Edinburgh, in that part of Great Britain called Scotland*; and this ſhe prays may be inquired of by the country, &c. S. Le Blanc.

Demurrer.

And the ſaid Charles ſaith that the ſaid plea of the ſaid Mary, otherwiſe Maria, in manner and form aforeſaid above pleaded by way of reply to the ſaid plea of the ſaid Charles by him above pleaded, and the matters therein contained, are not ſufficient in law for the ſaid Mary, otherwiſe Maria, to have or maintain her ſaid action thereof againſt him, and that he the ſaid Charles is not bound or obliged by the law of the land to make anſwer thereto, and this he is ready to verify; therefore for want of a ſufficient replication in this behalf, the ſaid Charles as before prays judgment, and that the ſaid Mary, otherwiſe Maria, may be barred from having her dower aforeſaid in this behalf, and for cauſes of demurrer in law in this behalf, the ſaid Charles, according to the form of the ſtatute in ſuch caſe made and provided, ſpecially ſets down, and ſhews to the Court here the cauſes following, that is to ſay, that the ſaid ſuppoſed marriage in the ſaid replication mentioned, and therein alledged to have been celebrated in that part of Great Britain called Scotland, is not a marriage whereby or by reaſon whereof the ſaid Mary, otherwiſe Maria, can by law claim or entitle herſelf to have any dower of the tenements above mentioned, and alſo for that the ſaid plaintiff has *not laid any place by way of venue where the ſaid ſuppoſed marriage was had*, and alſo for that the ſaid replication is ill concluded by being concluded to the country, and for that the ſaid Mary, otherwiſe Maria, hath by her ſaid replication and the concluſion thereof attempted to put in iſſue, and draw to a trial by a jury of the country, a matter that is not by law triable by a jury of the country, but which is of eccleſiaſtical cognizance, and which ought to be tried by the certificate of the biſhop, to whom the right of certifying whether the ſaid Mary, otherwiſe Maria, and Thomas Ilderton were or not accoupled in lawful matrimony belongs, and alſo that it does not appear

That the ſaid marriage alledged is not ſuch whereby plaintiff can claim dower.

That plaintiff has not laid any place by way of *venue* where the marriage was had.

That ſhe hath concluded to the country.

Hath attempted to draw to a trial by the court what is of eccleſiaſtical cognizance.

appear to the court here, by the ſaid replication, to what biſhop or other ſpiritual judge or perſon any writ can or ought to be directed or ſent to enquire and certify whether the ſaid Mary, otherwiſe Maria, was accoupled to the ſaid Thomas Ilderton, deceaſed, in lawful matrimony or not, and alſo for that the ſaid replication is in other reſpects defective, and wants form.

J. ADAIR.

Joinder. And the ſaid Mary, otherwiſe Maria, by the ſaid Townley Ward her attorney aforeſaid, ſays, that the ſaid plea of her the ſaid Mary, otherwiſe Maria, in manner and form as the ſame is above pleaded by way of reply to the ſaid plea of the ſaid Charles by him above pleaded, and the matters therein contained, are ſufficient in law for the ſaid Mary, otherwiſe Maria, to have and maintain her ſaid action againſt him the ſaid Charles; which ſaid replication, and the matters therein contained, the ſaid Mary, otherwiſe Maria, is ready to verify and prove as the court here ſhall award; and becauſe the ſaid Charles hath not anſwered the ſaid replication, nor in any manner denied the ſame, the ſaid Mary, otherwiſe Maria, prays judgment and her dower of the meſſuages and tenements aforeſaid, with the appurtenances, &c.; and becauſe *Cur. adv. vult.* the juſtices of our ſaid lord the king here will adviſe themſelves of and upon the premiſes before they give their judgment thereon, day is given to the parties here until to hear judgment thereon, for that the ſaid juſtices here are not yet adviſed thereof, &c.

S. LE BLANC.

Pleas before ſir James Eyre, knight, and his companions, juſtices of our lord the king of the bench of Trinity term, in the thirty ſeventh year of the reign of our ſoverein lord George the Third, king of Great Britain, France, and Ireland, defender of the faith, and ſo forth.

Proceedings in a writ of dower under *nihil habet* where the huſband died ſeiſed.

SARAH HARRIS, WIDOW, *againſt* JOHN WESTERMAN. } SURREY, to wit. Sarah Harris, widow, who was the wife of Michael Harris, deceaſed, by C. H. her attorney, demands againſt John Weſterman the third part of ten meſſuages, ten dwelling-houſes, ten yards, ten backſides, ten workhouſes, ten ſheds, and ten acres of land, with the appurtenances, in the pariſh of Saint Olave, in the borough of Southwark, in the county of Surry, as the dower of the ſaid Sarah of the endowment of the ſaid Michael heretofore her huſband, whereof ſhe hath nothing, &c.

Plea. And the ſaid John, by B. D. his attorney, comes and ſaith that the ſaid Sarah ought not to have dower of the tenements aforeſaid, with the appurtenances, of the endowment of the ſaid Michael; becauſe he ſays, that the ſaid Michael, late huſband, &c. neither on the day he married the ſaid Sarah, nor ever afterwards, was

ſeiſed

ſeiſed of the tenements aforeſaid, with the appurtenances, whereof, &c. of ſuch an eſtate as he could thereof endow the ſaid Sarah; and of this he puts himſelf upon the country, &c.; and the ſaid Sarah doth ſo likewiſe; therefore the ſheriff is commanded that he cauſe to come in twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c.

Jury reſpited.

Surry, to wit. The jury between Sarah Harris plaintiff, and John Weſterman defendant, in a plea of dower, is reſpited here until on the morrow of All Souls, unleſs his majeſty's juſtices aſſigned to take the aſſizes in and for the county of Surry ſhall firſt come on Monday the ſeventh day of Auguſt at Croydon, in the ſaid county, according to the form of the ſtatute in that caſe made and provided for default of the jurors becauſe none of them did appear; therefore let the ſheriff have the bodies of the ſeveral perſons mentioned in the pannel annexed to the writ of *habeas corpus jurata*; and be it known that the juſtices here in court in this ſame term delivered a writ thereupon to the deputy ſheriff of the county aforeſaid to be executed in due form of law.

Poſtea, finding that the huſband was ſeiſed of part of the premiſes after the marriage.

Afterwards, that is to ſay, on the day and at the place within-mentioned, before the right honourable ſir James Eyre, knight, the chief juſtice of our ſovereign lord the king of the bench, and ſir Francis Buller, baronet, one other of the juſtices of our ſaid lord the king of the bench, the juſtices of our ſaid lord the king aſſigned to take the aſſizes in and for the county of Surry aforeſaid, came as well the within-named Sarah Harris, by her attorney within named, as the within-named John Weſterman, by his attorney within named, and the jurors of the jury whereof mention is within-named being ſummoned come, who to ſay the truth of the within-contents being elected, tried, and ſworn as to the three meſſuages, two work houſes, one garden, and two backſides, with the appurtenances, in the pariſh of Saint Olave, in the borough of Southwark, in the county of Surry, parcel of the tenements within ſpecified, whereof, &c. upon their oath ſay that the within Michael Harris, late huſband, &c. after the day when he married the ſaid Sarah, was ſeiſed of the ſaid three meſſuages, two work houſes, one garden, and two backſides, parcel of the tenements within ſpecified, whereof, &c. of ſuch an eſtate as he could thereof endow the ſaid Sarah; and as to the reſidue of the tenements within ſpecified, with the appurtenances, the jurors aforeſaid, upon their oath aforeſaid, ſay, that the within-named Michael Harris, late the huſband, &c. neither on the day when he married the ſaid Sarah, nor ever after, was ſeiſed of the ſaid tenements within ſpecified, with the appurtenances, whereof, &c. of ſuch an eſtate as he could thereof endow the ſaid Sarah, as the ſaid John Weſterman has within in pleading alledged.

This cauſe came on to be tried before Juſtice Buller, at Croydon aſſizes, the ſeventh of Auguſt 1797, when the demandant obtained a verdict. Marryatt for

or the tenant contended that the plaintiff ought to have shewn such an estate in her husband as she was dowable of to support the issue; but Justice Buller took distinction, *possession*, and *receipt of the rents* as *prima facie* evidence of a *fee simple estate*, and if the party in possession had only a *particular estate*, it was incumbent upon, and in the power of the defendant to shew it, upon which the plaintiff proved by a son of the defendant that his father was tenant of the premises in the lifetime of the demandant's husband, and paid rent to him.—Garrow and Barrow for plaintiff. Marryatt for defendant.

Therefore it is considered that the said Sarah do recover against the said John her seisin of the said third part of the said three messuages, two work houses, one garden, and two backsides, with the appurtenances, parcel of the tenements within specified, whereof, &c. to hold to her in severalty by metes and bounds; and the said John in mercy, &c.; and hereupon the said Sarah prays a writ of our lord the king to be directed to the sheriff of the county aforesaid to cause her to have full seitin of the said third part of the said three messuages, two work houses, one garden, and two backsides, with the appurtenances, parcel, &c.; and it is granted to her, returnable here on, &c. Judgment for demandant in dower.

I have considered, I think, every printed authority upon the subject of this case; and the short result is, that there must be judgment of seisin for a third part of the premises of which it is found by the postea that the demandant is dowable; and that upon that there must be an award of *habere facias seisinam*; but as the demandant's husband did not die seised, no damages can be recovered; for damages are only given by the statute of Merton 20. H. 3. where the husband dies seised; otherwise the next step would have been to have awarded an enquiry of those damages. A writ of *habere facias seisinam* must therefore now issue, which being upon a process by original writ, must have fifteen days between the *teste* and return, and must be returnable upon a general return day. With regard to the execution of this writ, it appears that regularly the sheriff ought only to deliver seisin of the third part recovered by metes and bounds whereby to enable the plaintiff to maintain an ejectment against the tenants in possession, who are entitled to defend that possession, if it admits of defence; but who have no other mode of doing it than in action of ejectment. Vide Lindsay v. Lindsay, 2. Ld. Raym. 1293. 1. Salk. 291. But by analogy to cases of tenancy by *elegit*, Jefferson v. Dawson, 3. Kel. 243. it appears that if the sheriff should deliver actual possession upon this writ of seisin in dower, he may do it legally, and the tenants in possession will be bound by it. Under these circumstances I have drawn the writ of seisin with a hope that the quiet possession will be surrendered without resorting to an action of ejectment, for such action can only be defended at a great expence, and as it appears to me in this case without a chance of success on the part of the defendants, the tenants in possession.

THO. BARROW.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, to the sheriff of Surry, greeting: Whereas Sarah Harris, widow, who was the wife of Michael Harris, deceased, hath lately in our court before sir James Eyre, knight, and his companions, our justices of the bench at Westminster, by our writ of dower, whereof she hath nothing, and by the judgment of the said court, recovered against John Westerman her seisin of the third part of three mes- Writ of *habere facias seisinam*.

ſuages, two workhouſes, one garden, and two backſides, with the appurtenances, in the pariſh of Saint Olave, in the borough of Southwark, in your county, as the dower of her the ſaid Sarah, of the endowment of the ſaid Michael Harris, her late huſband, whereof the ſaid John Weſterman is convicted, as by the record and proceedings thereof remaining in our ſaid court of the bench at W. aforeſaid more fully appears; therefore we command you, that you without delay deliver to the ſaid Sarah ſeiſin of the ſaid third part of the ſaid three meſſuages, two workhouſes, one garden, and two backſides, with the appurtenances, to hold to her in ſeveralty by metes and bounds according to the force, form, and effect of the ſaid recovery, and how you ſhall execute this our writ certify to our juſtices at Weſtminſter on, returning to us this our writ. Witneſs, &c.

Writ of ſeiſin in Dower.

GEORGE, &c. to, &c. whereas H. M. and C. his wife, which ſaid C. was the wife of W. C. lately in our court, before our juſtices at , demanded againſt R. C. and J. C. tenants in dower, the third part of one meſſuage, one garden, &c. land, and common of paſture for all cattle, with the appurtenances, in , in your county, as the daughters of the ſaid C. by the endowment of the ſaid W. C. her ſaid late huſband, and whereof ſhe nothing hath, &c.; and in ſuch manner it is proceeded in our ſaid court before our, &c. that the ſaid H. M. and C. his wife ought to recover as well the value of the third part of the tenements aforeſaid, with the appurtenances, as their damages by reaſon of the detention of the dower aforeſaid, and alſo to have their full ſeiſin of the tenements aforeſaid, with the appurtenances; and we being willing that thoſe things which in our ſaid court are rightly acted be duly executed, therefore we command you, that you cauſe the ſaid H. M. and C. his wife to have their full ſeiſin of the third part of the tenements aforeſaid, and that you enquire diligently, by the oaths of good and lawful men of your bailiwick, when the ſaid W. C. died, and if he died ſeiſed of the tenements aforeſaid, &c. in his demeſne as of fee ſimple or fee tail, and if by the inquiſition to be had thereupon you ſhall ſo find then by the oaths aforeſaid that you enquire diligently how much the ſaid tenements, with the appurtenances, are worth by the year in , iſſues beyond reprizes according to the true value of the ſame, as alſo what damages the ſaid H. M and C. his wife have ſuſtained as well by the detention of the dower aforeſaid beyond the value aforeſaid as for their coſts, &c. by them about their ſuit in this behalf expended, and the inquiſition you ſhall make thereupon you ſhall make manifeſt to our juſtices at the firſt day of next general ſeſſions of aſſize there to be holden, under your ſeal and the ſeals of thoſe by whoſe oath you ſhall make that inquiſition, and that you have there the names of thoſe by whoſe oath you ſhall make that inquiſition, and this writ. Witneſs Alexander lord Loughborough.

GEORGE,

GEORGE, &c. to, &c. command T. O. eſquire, A. L. and E. his wife, C. B. and H. his wife, that juſtly and without delay they render to B. C. widow, who was the wife of T. C. eſquire, deceaſed, her reaſonable dower which falleth to her out of the freehold which was of the aforeſaid T. C. eſquire, deceaſed, heretofore her huſband, in the pariſhes of , whereof ſhe hath nothing, as ſhe ſaith, and whereof ſhe complaineth that the ſaid T. O. &c. the defendants deforce her, and unleſs they ſhall ſo do, and the ſaid B. C. ſhall give you ſecurity that her ſuit ſhall be proſecuted, then ſummon by good ſummoners the ſaid T. O. &c. the defendants that they be before our juſtices at Weſtminſter on , to ſhew wherefore they will not do it, and have you there the ſummoners, and this writ. Witneſs ourſelf at Weſtminſter, &c. GATAKER. Writ of dower.

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FORMEDON.

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NOTTINGHAMSHIRE, to wit. Sarah Berridge, who is under the age of twenty-one years, by Thomas Aſtey, her next friend, hereunto ſpecially admitted by the court here, demands againſt Nicholas Buckley, late of Normanton upon Soar, in the county of Nottingham, gentleman, and John Wildey, late of Sutton Bonnington, in the county aforeſaid, cordwainer, forty acres of arable land, twenty acres of meadow land, and twenty acres of paſture land, with the appurtenances, ſituate, lying, and being in Sutton B. in the county aforeſaid, which under and by virtue of a certain act made at the parliament of our ſovereign lord George the Third now king of Great Britain, and holden at Weſtminſter, in the county of Middleſex, in the fourteenth year of the reign of our ſaid lord the now king, intitled, "An Act for "dividing and incloſing all the open Fields, Meadows, Paſtures, "and commonable Grounds within the Townſhip or Liberty "of Sutton Saint Anns, otherwiſe Sutton Bonnington, com-"monly called Saint Anns End, in the County of Nottingham," were ſet out, allotted, aſſigned, and appertained unto Elizabeth Berridge, and by her taken and accepted in lieu of and in full ſatisfaction and compenſation for her undivided moiety of certain lands, with the appurtenances, ſituate, lying, and being in Sutton B. aforeſaid, which Matthew Berridge gave to Charles Peſtell and Thomas Allſopp, to their heirs and aſſigns, to the uſe and behoof of the ſaid Matthew Berridge and his aſſigns for and during the term of his natural life, without impeachment of or for any manner of waſte, and from and after the determination of the eſtate to the uſe of the ſaid Charles P. and Thomas A. during the natural life of the ſaid Matthew B. upon truſt, to ſupport and preſerve the contingent uſes and eſtates after limited from being defeated, barred, and deſtroyed, and for that purpoſe to make entries and bring actions, as occaſion ſhould require, but nevertheleſs to permit and ſuffer the ſaid Matthew B. and his aſſigns to receive and take the rents, iſſues, and profits thereof to and for his and their own uſe and benefit during the life of the ſaid Matthew B. and from and after his deceaſe to the uſe and behoof of the firſt ſon of the body of the ſaid Matthew B. on the body of Elizabeth his wife lawfully begotton or to be begotten, and to the heirs male of the body of ſuch firſt ſon lawfully iſſuing, and for default of ſuch iſſue to the uſe and behoof of the ſecond, third, fourth, and fifth, and all and

Declaration by infant by *prochein ami* in formedon in remainder for lands allotted to the demandant under an act of parliament for dividing and incloſing open fields and commonable grounds.

every other ſon and ſons of the body of the ſaid William B. on the body of the ſaid Elizabeth his wife lawfully begotten or to be begotten, whether in his lifetime or after his deceaſe, ſeverally, ſucceſſively, and in remainder, one after another, as they and every of them ſhould be in ſeniority of age and priority of birth, and the ſeveral and reſpective heirs male of the body and bodies of all and every ſuch ſon and ſons lawfully iſſuing, ſo as that the eldeſt of ſuch ſons and the heirs male of his body iſſuing ſhould be always preferred and take before the younger of ſuch ſon and ſons and the heirs males of his and their body and bodies lawfully iſſuing, and for default of ſuch iſſue to the uſe and behoof of all and every the daughter and daughters of the body of the ſaid M. B. on the body of the ſaid E. his wife begotten or to be begotten, equally to be divided between ſuch daughters, if more than one, ſhare and ſhare alike, and they to take as tenants in common, and not joint tenants, nor to accrue by ſurvivorſhip, and to the heirs of the body and bodies of all and every ſuch daughter and daughters lawfully iſſuing, and failing iſſue of any of the ſaid daughters then as to the ſhare or ſhares of ſuch daughter or daughters whoſe iſſue ſhould fail to the uſe of all and every other ſuch daughter or daughters lawfully iſſuing, and in caſe all ſuch daughters ſave one ſhould die without iſſue, or if there ſhall be but one ſuch daughter, then to the uſe and behoof of ſuch ſurviving or only daughter and the heirs of her body, which ſaid laſt-mentioned lands, with the appurtenances, after the death of the ſaid Matthew B. and before the ſaid allotment ſo made as aforeſaid, remained to the ſaid Elizabeth B and Sarah B. which ſaid Elizabeth B. and Sarah B. at the time of the death of the ſaid Matthew B. were the daughters and only iſſue of the body of the ſaid M. B. on the body of the ſaid E. his wife begotten, by the form of the gift aforeſaid (that is to ſay, one undivided moiety thereof), thereupon remained to the ſaid Elizabeth B. and to the heirs of her body lawfully iſſuing, and the other undivided moiety thereof thereupon remained to the ſaid Sarah B. and to the heirs of her body lawfully iſſuing, and which ſaid lands, with the appurtenances, ſo allotted unto the ſaid Elizabeth B. as aforeſaid, after the ſaid allotment thereof, and after the death of her the ſaid Elizabeth B. ought to remain to the ſaid Sarah B. as the ſurviving and only daughter of the ſaid Matthew B. by the form of the gift and allotment aforeſaid, inaſmuch as the ſaid Elizabeth, the daughter of the ſaid Matthew B. died without heirs of her body lawfully iſſuing: And whereupon the ſaid Sarah B. ſays, that the ſaid Matthew B. was ſeiſed of the tenements ſo given as aforeſaid, with the appurtenances, in his demeſne as of fee and right in the time of peace in the time of the lord George the Second, late king of Great Britain, &c. by taking the eſplees thereof to the value do, &c. and being ſo ſeiſed thereof he the ſaid Matthew B. on the twenty-fourth of September, A. D. 1756, at S. B. in the county of N. aforeſaid, by a certain indenture then and there made between the ſaid Matthew B. of the one part, and the ſaid Charles P. and Thomas A. of the other part, (one

Count.

one part of which ſaid indenture, ſealed with the ſeal of the ſaid Matthew B. the ſaid Sarah now brings here into court, the date whereof is the ſame day and year aforeſaid), for and in conſideration of a certain ſum of money, to wit, five ſhillings, therein mentioned to be paid by the ſaid Charles P. and Thomas A. to the ſaid Matthew B. bargained and ſold by the ſaid Charles P. and Thomas A. all thoſe ſeveral pieces and parcels of arable land, ley, meadow, paſture, and graſs ground, with their appurtenances, ſituate, lying, and being within ſeveral open and common fields of and belonging to Sutton, otherwiſe Sutton B. in the ſaid county of N. or within the liberties, precincts, and territories thereof, containing by eſtimation two yard-lands and a half, and then or then late in the tenure or occupation of James B. brother of the ſaid Matthew B. his aſſign or aſſigns, and were purchaſed by John B. father of the ſaid Matthew B. of and from William Gray, of Sutton, otherwiſe Sutton B. aforeſaid, gentleman, and alſo all thoſe ſeveral other pieces and parcels of arable land, ley, meadow, paſture, and graſs ground, with their appurtenances, ſituate, lying, and being within the ſeveral open and common fields of and belonging to Sutton, otherwiſe Sutton B. aforeſaid, or within the liberties, precincts, and territories thereof, containing by eſtimation or commonly reputed to be eight acres, or thereabouts, be the ſame more or leſs, and then or then late alſo in the tenure or occupapation of the ſaid James B. his aſſign or aſſigns, which ſaid laſt-mentioned lands and premiſes were purchaſed by the ſaid John B. of and from Edward Dobſon, of Sutton, otherwiſe Sutton B. aforeſaid, yeoman, and alſo all and ſingular other the lands, tenements, and hereditaments of him the ſaid Matthew B. ſituate and being in Sutton, otherwiſe Sutton B. aforeſaid, together with all and ſingular hedges, ditches, mounds, fences, trees, woods, underwoods, ways, waters, water-courſes, eaſements, paths, paſſages, ſhades, baulks, leys, lands, ſandens, leaſowes, hot graſs, tying graſs, parting graſs, commons and common of paſture, profits, privileges, commodities, advantages, emoluments, hereditaments, and appurtenances whatſoever to the ſaid ſeveral pieces and parcels of arable land, leys, meadow, paſture, and graſs ground, and premiſes belonging, or in any wiſe appertaining, or accepted, reputed, taken, or known as part, parcel, or member thereof, to hold to them the ſaid C. P. and T. A. their executors, adminiſtrators, and aſſigns, from the day of the date of the ſaid indenture for and during and unto the full end and term of one whole year from thence next enſuing and fully to be complete and ended, as by the ſaid indenture appears; by virtue whereof, and by form of the ſtatute for transferring uſes into poſſeſſion, the ſaid C. P. and T. A. became poſſeſſed of the tenements laſt aforeſaid, with the appurtenances, the reverſion thereof after the determination of the ſaid term of one year belonging to the ſaid M. B. as aforeſaid; and the ſaid C. P. and T. A. being ſo poſſeſſed thereof as aforeſaid, and the ſaid reverſion thereof ſo belonging to the ſaid M. B. as aforeſaid, he the ſaid M. B. afterwards, to wit, on the twenty-

twenty-fifth of September, in the ſaid year of Our Lord 1756, at Sutton B. aforeſaid, in the county of N. aforeſaid, by a certain other indenture then and there made between the ſaid Matthew B. and Elizabeth his wife of the firſt part, John Ludford of the ſecond part, the ſaid C. P. and T. A. of the third part, and Thomas Paget, of Ibſtock, in the county of Leiceſter, gentleman, and Thomas Berridge, of Langor, in the county of Northumberland, yeoman, of the fourth part (one part of which ſaid laſt-mentioned indenture, ſealed with the ſeal of the ſaid Matthew B. the ſaid S. B. now brings here into court, the date whereof is the ſame day and year laſt aforeſaid), the ſaid M. B. for the conſiderations therein mentioned, did releaſe and confirm unto the ſaid C. P. and T. A. in their actual poſſeſſion then being by virtue of the ſaid bargain and ſale, and the ſaid ſtatute for transferring uſes into poſſeſſion, and to their heirs and aſſigns, the tenements laſt aforeſaid with the appurtenances, to have and to hold the ſame unto the ſaid C. P. and T. A. their heirs and aſſigns, that is to ſay, to the uſe and behoof of the ſaid Matthew B. and his aſſigns for and during the term of his natural life, without impeachment of or for any manner of waſte, and from and after the determination of that eſtate to the uſe of the ſaid C. P. and T. A. during the natural life of the ſaid Matthew B. upon truſt to ſupport and preſerve the contingent uſes and eſtates thereinafter limited from being defeated, barred, or deſtroyed, and for that purpoſe to make entries and bring actions as occaſion ſhould require; but nevertheleſs to permit and ſuffer the ſaid Matthew B. and his aſſigns to receive and take the rents, iſſues, and profits thereof to and for his and their uſe and benefit, during the life of the ſaid Matthew B. and from and after his deceaſe, to the uſe and behoof of the ſaid ſon of the body of the ſaid Matthew B. on the body of Elizabeth his wife lawfully begotten or to be begotten, and to the heirs male of the body of ſuch firſt ſon lawfully iſſuing, and for default of ſuch iſſue to the uſe and behoof of the ſecond, third, fourth, or fifth, and all and every other the ſon and ſons of the body of the ſaid Matthew B. on the body of the ſaid Elizabeth his wife lawfully begotten or to be begotten, whether born in his life-time or after his deceaſe, ſeverally, ſucceſſively, and in remainder one after another, as they and every of them ſhould be in ſeniority of age and priority of birth, and the ſeveral and reſpective heirs male of the body and bodies of all and every ſuch ſon and ſons lawfully iſſuing, ſo as that the eldeſt of ſuch ſons and the heirs male of his body iſſuing ſhould be always preferred and take before the youngeſt of ſuch ſon and ſons and the heirs male of his and their body and bodies lawfully iſſuing, and for default of ſuch iſſue to the uſe and behoof of all and every the daughter and daughters of the body of the ſaid Matthew B. on the body of the ſaid Elizabeth his wife begotten or to be begotten, equally to be divided between ſuch daughters, if more than one, ſhare and ſhare alike, and they to take as tenants in common and not as join-tenants, nor to accrue by ſurvivorſhip, and to the heirs of the body and bodies of all and every ſuch daughter and daughters

as lawfully iſſuing, and failing iſſue of any of the ſaid daughters, then to the ſhare or ſhares of ſuch daughter or daughters whoſe iſſue ſhould fail, to the uſe of all and every other ſuch daughter or daughters, to take in like manner as tenants in common, and of the heirs of the body and bodies of ſuch other daughter or daughters lawfully iſſuing, and in caſe all ſuch daughters ſave one ſhould die without iſſue, or if there ſhould be but one ſuch daughter, then to the uſe and behoof of ſuch ſurviving or only daughter, and to the heirs of her body, as by the ſaid laſt-mentioned indenture appears, by virtue of which ſaid laſt-mentioned indenture, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid Matthew B. became and was ſeiſed of the ſaid laſt-mentioned tenements, with the appurtenances in his demeſne, as of freehold, to wit, for the term of his natural life, in the time of peace in the time of our ſaid lord George the Second, king of Great Britain, and by taking the eſplees thereof to the value, &c. and being ſo ſeiſed, the ſaid Matthew B. afterwards, to wit, on the thirtieth of October, A. D. 1774, at Sutton B. aforeſaid, in the county of N. aforeſaid, died without heirs male of the body of the ſaid Matthew B. on the body of the ſaid Elizabeth his wife begotten, leaving iſſue two daughters Elizabeth B. and the ſaid Sarah B. on the body of the ſaid Elizabeth his wife lawfully begotten, whereupon the ſaid Elizabeth B. and the ſaid Sarah Berridge, by form of the gift aforeſaid, became and were ſeiſed each in an undivided moiety of the tenements laſt aforeſaid, with the appurtenances, to wit, in their demeſne as of fee tail in the time of peace in the time of the now king George the Third, by taking the eſplees thereof to the value of, &c. and being ſo ſeiſed thereof as aforeſaid, afterwards, to wit, by a certain act of parliament made at the parliament of our ſovereign lord George the Third, now king of Great Britain, and holden at Weſtminſter, in the county of Middleſex, in the fourteenth year of the reign of our ſovereign lord the now king, intitled "An Act for dividing and incloſing all the open Fields, "Meadows, Paſtures, and commonable Grounds within the "Townſhip or Liberty of Sutton Saint Anns, otherwiſe Sutton "B. commonly called Saint Ann End, in the county of Not-"tingham," reciting, that within the townſhip or liberty of Sutton Saint Anns, otherwiſe Sutton B. commonly called Saint Ann's End, in the county of Nottingham, there were ſeveral open fields known and diſtinguiſhed by the names of the Standard Fields, the Rundle Field, the Park Lane Field, and the Nether Field, and alſo certain meadow, paſture, and commonable grounds, conſiſting in the whole of fifty yard-lands and an half, and containing together about twelve hundred acres, and alſo reciting, that the lands and grounds of the ſeveral proprietors, thereby intended to be divided and incloſed, lay intermixed and diſperſed in ſmall parcels, and it would be advantageous to the ſeveral perſons intereſted therein to have the ſame divided and incloſed; it was enacted, that Thomas Oldknow, John Davys, William Fox, John Watkinſon, and William Fillingham, and their ſucceſſors, to be elected in manner therein

therein mentioned, ſhould be and were thereby appointed commiſſioners for the ſetting out, dividing, allotting, and incloſing the lands and grounds thereby intended to be divided and incloſed, and for putting the ſame act in execution; and it was further enacted, that all the lands and grounds thereby intended to be divided and incloſed, and alſo all the old incloſed ground within the ſaid townſhip or liberty of S. Saint Ann, otherwiſe Sutton B. commonly called Saint Ann's End, ſhould be ſurveyed and meaſured by the ſaid T. O. his agents or aſſiſtants, or by ſuch other perſon or perſons as the ſaid commiſſioners or any three or more of them ſhould order and direct; and it was thereby further enacted, that the ſaid commiſſioners or any three or more of them ſhould have full power and authority to ſet a value without partiality upon all the lands and grounds thereby intended to be divided and incloſed, and alſo as ſoon as conveniently might be after the ſaid ſurvey ſhould have been laid before them, and the contents and value of the whole, and the contents and value of each and every part and parcel thereof ſhould be aſcertained, to make a diviſion of the ſaid lands and grounds thereby intended to be divided and incloſed, unto and amongſt the ſeveral perſons intereſted therein, according to certain rules and directions in the ſaid act mentioned; and it was enacted, that the ſaid commiſſioners or any three or more of them, after ſetting out, aſſigning, and allotting certain particular allotments therein expreſſed, ſhould divide, ſet out, and allot all the reſidue of the ſaid lands and grounds thereby intended to be divided and incloſed unto, between, and amongſt the ſeveral perſons entitled to the ſame, in proportion to their ſeveral and reſpective ſhares and intereſts therein; and it was further enacted, that nothing in that act contained ſhould be deemed, adjudged, or taken to revoke, alter, extinguiſh, and annul, or make void any will or ſettlement, or to prejudice any perſon having or claiming any jointure, dower, portion, debts, rents, incumbrances, or other demand out of, upon, or affecting any of the lands or grounds thereby intended to be divided and incloſed, or any old incloſed houſes or other buildings which might be exchanged by virtue of that act other than leaſes at rack or extended rent, but that each and every proprietor's allotment be made by virtue of that act, and the old incloſures, houſes, or other buildings which might be exchanged as aforeſaid, ſhould ſtand charged and be chargeable with the ſame debts, rents, and incumbrances, as each and every proprietor's old incloſures, houſes, buildings, lands, grounds, and eſtates reſpectively, was or were chargeable with, or affected by before the paſſing of that act; and it was thereby further enacted, that the lands to be aſſigned, allotted, and applied unto and for the ſeveral and reſpective perſons intereſted in the lands thereby intended to be divided and incloſed, ſhould within the ſpace of ſix months next after the ſigning and ſealing the ſaid award, be taken and accepted by each and every of the perſons intereſted therein in full ſatisfaction and compenſation for their and each and every of their ſeveral and reſpective rights and intereſts therein, and that

guardians

guardians of any perſon or perſons being minors ſhould be enabled and required to accept thereof to the uſe of ſuch minors, and ſuch acceptance thereof ſhould be valid and effectual as if the perſons for whom the ſame ſhould be made reſpectively were capable of acting for themſelves; and it was further enacted, that within the ſpace of ſix months next after the diviſion and allotment of the lands thereby intended to be divided and incloſed ſhould be completed and finiſhed, the ſaid commiſſioners, or any three or more of them, ſhould form and draw up, or cauſe to be formed and drawn up an award or inſtrument in writing, which ſhould expreſs the quality and contents in ſtatute meaſure of the acres, roods, and perches contained in the ſaid lands and grounds thereby intended to be divided and incloſed, and the quality and contents of each and every part and parcel thereof aſſigned and allotted to each of the parties entitled to lands, tithes, common right, or other property, within the ſame, and a deſcription of the ſituation, abuttals, and boundaries of ſuch parcels and allotments reſpectively, which ſaid award or inſtrument ſhould be fairly engroſſed upon parchment, and ſigned and ſealed by the ſaid commiſſioners, or any three or more of them, and ſhould within ſix months next after the ſame ſhould be ſo ſigned and ſealed as aforeſaid be enrolled in one of his majeſty's courts of record at Weſtminſter, or by the clerk of the peace for the ſaid county of Northampton; and it was declared that the ſeveral allotments and diviſions ſo to be made as aforeſaid in or by ſuch award or inſtrument ſhould be binding and concluſive unto and upon all perſons entitled to or claiming any property in the ſaid lands and grounds thereby intended to be divided and incloſed; ſaving always to the king's moſt excellent majeſty, his heirs, and ſucceſſors, and to all and every other perſon or perſons, bodies politic and corporate, his, her, and their heirs, executors, adminiſtrators, and ſucceſſors, other than and except the ſeveral perſons to whom any allotment or allotments ſhould be made by virtue of that act and all claiming under them reſpectively, all ſuch eſtate, right, title, and intereſt, as they, every, or any of them had and enjoyed in the lands and grounds thereby intended to be divided and incloſed before the paſſing of that act, or ſhould or ought to have had or enjoyed therein in caſe the ſame had not been made, but no ſuch other perſon or perſons, bodies politic or corporate, his or their heirs, executors, adminiſtrators, or ſucceſſors, ſhould have power to diſturb any of the allotments or exchanges to be made in purſuance of that act, but ſhould accept the reſpective allotments which ſhould be made in lieu of the lands, tithes, common right, and other intereſt in the ſaid lands and grounds thereby intended to be divided and incloſed, which he, ſhe, or they would have been entitled to in caſe that act had not been made, and ſhould be entitled to recover ſuch allotments, and all ſuch tenements, lands, and grounds as ſhould be given in exchange for any other tenements, lands, and grounds as fully as he, ſhe, or they would have been entitled to have recovered the lands, grounds, common right,

and tithes, in lieu whereof ſuch allotments and exchanges ſhould be made as aforeſaid, as in and by the ſaid act of parliament remaining on record at Weſtminſter, relation being thereunto had, more fully may appear: And the ſaid Sarah B. further ſays, that the ſaid lands and grounds in the ſaid indentures mentioned were and are part of the ſaid reſidue of the ſaid lands and grounds by the ſaid act of parliament directed to be divided and encloſed: And the ſaid Sarah B. further ſays, that the ſaid T. O. J. D. W. F. John W. and William J. having taken upon themſelves the execution of the powers and authorities veſted in them in and by the ſaid act of parliament, and having had a ſurvey and admeaſurement with a plan of the ſaid open fields, meadows, paſtures, and commonable grounds, and alſo all the old encloſed grounds within the ſaid townſhip or liberty of Sutton Saint Anns, otherwiſe Sutton B. commonly called Saint Ann's End, duly taken, and having had the ſaid plan and admeaſurement laid before them, and it appearing to them by ſuch ſurvey and admeaſurement that the lands and grounds intended by the ſaid act to be divided and encloſed contained in the whole one thouſand one hundred acres and five perches, or thereabouts, and that the ſaid Elizabeth B. and Sarah B. were, amongſt others, the owners and proprietors of the ſaid open fields, meadows, paſtures, and commonable grounds intended by the ſaid act to be divided and encloſed, they the ſaid T. O. J. D. W. F. J. W. and W. F. did according to the ſaid act make a diviſion and allotment of the lands and grounds thereby directed to be encloſed within the ſpace of ſix months next after the ſaid diviſion and allotment was completed and finiſhed, to wit, on the tenth of March, A. D. 1775, at Sutton B. aforeſaid, did form and draw up an award or inſtrument in writing according to the direction of the ſaid act of parliament, and did cauſe the ſame to be fairly engroſſed on parchment, and did ſign and ſeal the ſame, and did by ſuch their award or inſtrument in writing under their hands and ſeals ſet out, allot, aſſign, and appoint unto Elizabeth B. the tenements above demanded by the deſcription of one plot or parcel of land in the ſaid Rundle Field, containing thirty acres, one rood, fifteen perches, or thereabouts, bounded by lands allotted to the ſaid Joſeph Smith, by lands allotted to Sarah B. by the turnpike road from Coleſton to Rempſtone, and by the high road leading from the ſaid turnpike road to Weſtlake reſpectively, and was thereby allotted to the ſaid Elizabeth B. in lieu of and full ſatisfaction of her undivided moiety of all the lands and common right in and upon the lands intended by the ſaid act to be divided and encloſed, lately belonging to the ſaid Sarah B. and Elizabeth B. daughters and coheirs of the ſaid Matthew B. deceaſed, and did ſet out, allot, aſſign, and appoint unto the ſaid Sarah B. one plot or parcel of land in the ſaid Rundle Field, containing thirty-two acres, three roods, and twelve perches, or thereabouts, bounded by lands allotted to Joſeph Smith, by lands allotted to Charles Allen and his ſucceſſors, rector of the rectory of Sutton Saint A. by the liberty of Normanton upon Soar, by

lands

lands allotted to Thomas Bacon, by the turnpike road leading from Coleſton to Rempſtone, and ſix lands allotted to the ſaid Elizabeth B. which was thereby allotted to the ſaid Sarah B. in lieu of and in full ſatisfaction of her undivided moiety of all the lands and common right in and upon the lands intended by the ſaid act to be divided and encloſed lately belonging to the ſaid Sarah B. and Elizabeth B. daughters and coheirs of the ſaid Matthew B. deceaſed, as by the ſaid award more fully appears; which ſaid award was within ſix months after the ſame was ſigned and ſealed as aforeſaid enrolled by the clerk of the peace of the ſaid county of Northampton; which ſaid lands ſo allotted as aforeſaid to the ſaid Elizabeth B. and Sarah B. reſpectively as aforeſaid within ſix months next after the ſigning and ſealing the ſaid award, to wit, on the ſame day and year laſt aforeſaid, at Sutton B. aforeſaid, were accepted by Thomas Aſtey, one Henry Cropper and William Hardy, then and there being the guardians of the ſaid Elizabeth B. and Sarah B. who then and there were minors, for the uſe of the ſaid E. B. and S. B. reſpectively, in full ſatisfaction and compenſation for their and each of their ſeveral and reſpective rights and intereſts in the lands by the ſaid act intended to be encloſed; by virtue whereof the ſaid Elizabeth became ſeiſed of the lands allotted to her as aforeſaid, being the tenements above demanded in her demeſne as of fee tail, to wit, to her and the heirs of her body lawfully iſſuing; and being ſo ſeiſed the ſaid Elizabeth afterwards, to wit, on the ſixteenth of December, A. D. 1781, at Sutton B. aforeſaid, died without any iſſue of her body iſſuing, whereupon the right remaineth to the ſaid Sarah B. the now demandant by the form of the gift and allotment aforeſaid, for that the ſaid Elizabeth B. died without iſſue of her body lawfully iſſuing; wherefore the ſaid Sarah B. brings ſuit, &c.

Plea, that demandant was ſeiſed of premiſes as coheireſs with her ſiſter, who married, and levied a fine of premiſes to the uſe of her huſband and his heirs for ever, and that the warranty deſcended upon demandant as collateral heir.

And the ſaid Nicholas Buckley and John Wildey, by William Cradock their attorney, come and defend their right, when, &c. and ſay, that true it is that the ſaid Elizabeth was in her life time ſeiſed of the tenements above demanded in her demeſne as of fee tail in manner and form in the Count of the ſaid Sarah above alledged; but they ſay, the ſaid Elizabeth being ſo ſeiſed before the levying the fine hereinafter mentioned, to wit, on the firſt of January, A. D. 1778, at Sutton B. aforeſaid, a marriage was had and ſolemnized between the aforeſaid Elizabeth and one William Townley, whereupon the ſaid William and Elizabeth, in right of the ſaid Elizabeth, became ſeiſed of the tenements above demanded to themſelves and the heirs of the body of the ſaid E. and being ſo ſeiſed thereof afterwards a certain fine was levied in the court of our ſovereign lord the king here, to wit, at Weſtminſter, in the county of Middleſex, in fifteen days of Saint Martin, in the term of Saint Michael, in the nineteenth year of the reign of George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c.

before William de Grey, Henry Gould, William Blackſtone, and George Nares, juſtices of our lord the king, and others then and there preſent, between John Stokes, gentleman, plaintiff, and the ſaid William T. and Elizabeth his wife the deforceants (amongſt other things) of the tenements above demanded by the name of a moiety of eighty acres of land and ten acres of meadow, with the appurtenances, in Sutton B. otherwiſe Sutton Saint A. in the county of N. whereupon a plea of covenant was ſummoned between them in the ſaid court, that is to ſay, that the aforeſaid William and Elizabeth acknowledged the aforeſaid moiety, with the appurtenances, to be the right of him the ſaid John Stokes, as thoſe which the ſaid John Stokes had of the gift of the aforeſaid William and Elizabeth and thoſe they had remiſed and quit claimed from them the ſaid William and Elizabeth and their heirs to the aforeſaid John Stokes and his heirs for ever; and moreover the ſaid William and Elizabeth granted for their and the heirs of the ſaid Elizabeth that they would warrant to the aforeſaid John Stokes and his heirs the aforeſaid moiety, with the appurtenances, againſt them the ſaid William and Elizabeth and the heirs of the ſaid Elizabeth for ever: And the ſaid Nicholas B. and John W. further ſay, that proclamations upon the fine aforeſaid were made according to the form of the ſtatute in ſuch caſe made and provided in manner and form following, to wit, the firſt proclamation was made the twenty eighth of November, in the aforeſaid term of Saint Michael, in the nineteenth year of his preſent majeſty, and the ſaid proclamation was made on the twelfth of February, in the term of Saint Hilary, in the nineteenth year of his preſent majeſty, and the third proclamation on the eighth of May, in Eaſter term, in the nineteenth year of his preſent majeſty, and the fourth proclamation was made on the nineteenth of June, in the term of the Holy Trinity, in the nineteenth year of his preſent majeſty, as by the record of the fine and proclamations aforeſaid remaining in the court of our lord the now king of the bench here, to wit, at Weſtminſter aforeſaid, in the county of Middleſex aforeſaid, more fully appears: And the ſaid Nicholas B. and John Wildey aver that the ſaid fine in form aforeſaid levied was levied to the uſe of the ſaid William Townley and his heirs for ever, and that after the levying thereof the ſaid William Townley entered into the tenements above demanded, and by virtue thereof, and by force of the ſtatute for transferring uſes into poſſeſſion, became and was ſeiſed thereof in his demeſne as of fee, and being ſo ſeiſed thereof afterwards, to wit, on the ſixteenth of November, A. D. 1781, at Sutton B. aforeſaid, the ſaid William Townley enfeoffed the ſaid Nicholas B. and John W. of the tenements above demanded, to hold to the ſaid Nicholas B. and John W. their heirs and aſſigns for ever; by virtue whereof the ſaid N. B. and J. W. afterwards, to wit, on the ſame day and year laſt aforeſaid, at Sutton B. aforeſaid, entered into the ſaid tenements above demanded, and became and were, and from thence hitherto have been ſeiſed thereof in their demeſne as of fee: And the ſaid Nicholas B. and John W. ſay, that

that after the levying the fine aforeſaid, to wit, on the ſame day and year laſt aforeſaid, the ſaid Elizabeth died without iſſue, leaving the ſaid Sarah the demandant her only ſiſter and heir, upon whoſe death the warranty aforeſaid contained in the ſaid fine deſcended on the ſaid Sarah the demandant as ſiſter and collateral heir of the ſaid Elizabeth; and this they are ready to verify; wherefore they pray judgment if the ſaid Sarah ought to have and maintain her aforeſaid action thereof againſt them, &c. THO. WALKER.

Replication, that premiſes demanded were not compriſed in fine, and iſſue.

And the ſaid Sarah B. as to the ſaid plea of the ſaid Nicholas B. and John W. by them above pleaded in bar, ſays, that ſhe by reaſon of any thing by the ſaid Nicholas and John in that plea alledged ought not to be barred from having or maintaining her aforeſaid action againſt them; becauſe proteſting that the ſaid plea and the matters therein contained are not ſufficient in law to bar the ſaid Sarah from having and maintaining her aforeſaid action againſt the ſaid Nicholas and Thomas; yet for replication in this behalf the ſaid Sarah ſaith, that the ſaid forty acres of arable land, twenty acres of meadow, and twenty acres of paſture land, with the appurtenances, in Sutton B. above demanded, are not compriſed in the ſaid fine levied by the ſaid William Townley and Elizabeth Townley to the uſe of the ſaid William Townley and his heirs for ever, as by the ſaid plea is above ſuppoſed; and this the ſaid Sarah prays may be enquired of by the country, &c.; and the ſaid N. and John do the like; therefore the ſheriff is commanded that he cauſe to come here in three weeks of the Holy Trinity twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c.

(a) Count in Formedon.

NORTHUMBERLAND, to wit. George Forſter, by Richard Lowndes his attorney, demands againſt George Nelſon one meſſuage, ſix ſtables, two granaries, two coach houſes, one brewhouſe, and one garden, with the appurtenances, in the pariſh of Morpeth, in the county of Northumberland, and alſo againſt Iſabel Turton one other meſſuage and one other garden, with the appurtenances, in the pariſh of Morpeth, in the ſame county of Northumberland, which Thomas Pye, now deceaſed, gave to John Orde and John Richardſon, their heirs, and aſſigns for ever, to the uſe and behoof of the ſaid Thomas Pye, until the ſolemnization of a marriage then intended between John Pye, only ſon and heir apparent of the ſaid Thomas Pye, and Ann Marr, ſpinſter, and from and after the ſolemnization of the ſaid intended marriage to the uſe and behoof of the ſaid John Pye for and during the term of his natural life, and from and after the determination of that eſtate then to the uſe and behoof of the ſaid John Orde and John Richardſon and their heirs for and during the term of the natural life of the ſaid John Pye, and from and after the death of the ſaid John Pye to the uſe and behoof of the ſaid John

(a) All the pleadings in this cauſe were ſettled or approved by Mr. G. Wood.

Orde and John Richardſon and their aſſigns for and during the term of one hundred years, if the ſaid Ann Marr ſhould ſo long live, and from and after the determination of the ſaid term to the uſe and behoof of the firſt ſon of the body of the ſaid John Pye on the body of the ſaid Ann Marr to be begotten and the heirs male of the body of ſuch firſt ſon lawfully to be begotten, and for default of ſuch iſſue then to the uſe and behoof of the ſecond ſon of the body of the ſaid John Pye on the body of the ſaid Ann Marr to be begotten and the heirs male of the body of ſuch ſecond ſon lawfully to be begotten, and for default of ſuch iſſue to the third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, and all and every other ſon and ſons of the body of the ſaid John Pye on the body of the ſaid Ann Marr to be begotten and the heirs male of the body of ſuch third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, and every other ſon and ſons lawfully to be begotten, ſeverally, ſucceſſively, and reſpectively, one after another, according to their ſeniority of age and priority of birth, and in default of ſuch iſſue to the uſe and behoof of the heirs female of the body of the ſaid John Pye on the body of the ſaid Ann Marr to be begotten, and in default of ſuch iſſue to the uſe and behoof of the right heirs of the ſaid Thomas Pye for ever, which ſaid intended marriage was afterwards duly had and ſolemnized between the ſaid John Pye and the ſaid Ann Marr, and which reverſion of and in the ſaid tenements, with the appurtenances, to hold after the death of the ſaid John Pye, and default of iſſue male and female of the body of the ſaid John Pye on the body of the ſaid Ann Marr to be begotten as aforeſaid, the ſaid Thomas Pye afterwards gave to John Orde and his heirs to the uſe of his grand-daughter Elizabeth Pye for and during the term of her natural life, and after the deceaſe of the ſaid Elizabeth Pye to the firſt ſon of the ſaid Elizabeth Pye and the heirs male of ſuch firſt ſon lawfully to be begotten, and for default of ſuch iſſue then to the ſecond, third, fourth, fifth, and all and every other the ſons of the ſaid Elizabeth Pye lawfully to be begotten, and for default of ſuch iſſue then to the uſe and behoof of all and every the daughters of the body of the ſaid E. P. as tenants in common, and not as joint tenants, and for default of ſuch iſſue to Charles Stoddart for the term of his natural life, and failing him to the iſſue male of his body lawfully begotten, or to be begotten, and failing ſuch iſſue to the ſaid George Forſter for his life, and after his death to the iſſue male of his body lawfully begotten or to be begotten, and which after the deaths of the ſaid John Pye and Elizabeth Pye, and Charles Stoddart, and Charles Stoddart ſon and heir male of the ſaid Charles Stoddart, ought to remain to the ſaid George Forſter by form of the gifts aforeſaid, for that the ſaid John Pye died without heirs male of the body of the ſaid John Pye on the body of the ſaid Ann his wife begotten, and without heirs female of the body of the ſaid John Pye on the body of the ſaid Ann his wife begotten, ſave and except the ſaid Elizabeth Pye, and for that the ſaid Elizabeth Pye died without iſſue of her body iſſuing, and for that the ſaid Charles Stoddart the father

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left the ſaid Charles Stoddart his ſon and heir male of his body lawfully begotten, and died without any other iſſue male of the body of the ſaid Charles Stoddart the father lawfully iſſuing, and for that the ſaid Charles Stoddart the ſon died without any iſſue male of his body lawfully iſſuing: And whereupon the ſaid George Forſter ſays that the ſaid Thomas Pye was ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right in the time of peace in the time of the lord George the Second, late king of Great Britain, by taking the eſplees thereof to the value, &c. and being ſo ſeiſed thereof the ſaid Thomas Pye, on the fourth day of March, in the year of Our Lord 1740, at Morpeth aforeſaid, in the county aforeſaid, by a certain indenture then and there made between the ſaid Thomas Pye of the one part, and the ſaid John Orde and John Richardſon of the other part (which ſaid indenture was ſealed with the ſeal of the ſaid Thomas Pye, the date whereof is the ſame day and year aforeſaid), for the conſiderations therein mentioned bargained and ſold (amongſt other things) the tenements aforeſaid, with the appurtenances, to the ſaid John Orde and John Richardſon, to hold to them the ſaid John Orde and J. R. their executors, adminiſtrators, and aſſigns, from the day next before the day of the date of the ſaid indenture for and during and unto the full end and term of one whole year from thence next enſuing and fully to be complete and ended; by virtue whereof, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid J. O. and John R. became poſſeſſed of the tenements aforeſaid, with the appurtenances, the reverſion thereof after the determination of the ſaid term of one year belonging to the ſaid Thomas Pye and his heirs; and the ſaid John Orde and John Richardſon being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid Thomas Pye as aforeſaid, he the ſaid Thomas Pye afterwards, to wit, on the fifth day of March, in the ſaid year of Our Lord 1740, at Morpeth aforeſaid, in the county aforeſaid, by a certain other indenture then and there made between the ſaid Thomas Pye and the ſaid John Pye, only ſon and heir apparent of the ſaid Thomas Pye, of the firſt part, one Edward Marr and the ſaid Ann Marr, ſpinſter, daughter of him the ſaid E. Marr, of the ſecond part, and the ſaid John Orde and John Richardſon of the third part (which ſaid laſt-mentioned indenture was ſealed with the ſeal of the ſaid Thomas Pye, the date whereof is the ſame day and year laſt aforeſaid), the ſaid Thomas Pye, for the conſiderations therein mentioned, releaſed the ſaid reverſion of the ſaid tenements, with the appurtenances, by the reſpective names and deſcriptions of all that meſſuage, burgage, houſe, or tenement, ſituate, ſtanding, and being in Morpeth aforeſaid, then in the tenure or poſſeſſion of Francis Rumney, inkeeper, and alſo all that other meſſuage, burgage, houſe, or tenement, ſituate, ſtanding, and being in Morpeth aforeſaid, then in the tenure or poſſeſſion of Mary Loraine, with their reſpective rights, members, and appurtenances, unto the ſaid John Orde and John Richardſon, their heirs, and aſſigns for ever, to the uſe and behoof of the ſaid

Thomas Pye until the ſolemnization of the ſaid marriage then intended between the ſaid John Pye and Ann Marr, and from and after the ſolemnization of the ſaid intended marriage to the uſe and behoof of the ſaid John Pye for and during the term of his natural life, and from and after the determination of that eſtate then to the uſe and behoof of the ſaid John Orde and John Richardſon and their heirs for and during the term of the natural life of the ſaid John Pye, and from and after the death of the ſaid John Pye to the uſe and behoof of the ſaid John Orde and John Richardſon and their aſſigns for and during the term of one hundred years, if the ſaid Ann Marr ſhould ſo long live, upon certain truſts therein after mentioned, from and after the determination of the ſaid term to the uſe and behoof of the firſt ſon of the body of the ſaid J. P. on the body of the ſaid A. M. to be begotten and the heirs male of the body of ſuch firſt ſon lawfully to be begotten, and for default of ſuch iſſue then to the uſe and behoof of the ſecond ſon of the body of the ſaid J. P. on the body of the ſaid A. M. to be begotten and the heirs male of the body of ſuch ſecond ſon lawfully to be begotten, and for default of ſuch iſſue to the third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, and all and every other ſon and ſons of the body of the ſaid J. Pye on the body of the ſaid Ann Marr to be begotten and the heirs male of the body of ſuch third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, and every other ſon and ſons lawfully to be begotten, ſeverally, ſucceſſively, and reſpectively, one after another, according their ſeniority of age and priority of birth, and in default of ſuch iſſue to the uſe and behoof of the heirs female of the body of the ſaid J. P. on the body of the ſaid A. M. to be begotten, and in default of ſuch iſſue to the uſe and behoof of the right heirs of the ſaid T. Pye for ever; and it was thereby declared that the ſaid term of one hundred years was limited to the ſaid John Orde and John Richardſon in truſt for ſecuring an annuity of twenty pounds to the ſaid Ann Marr, in caſe ſhe ſhould ſurvive the ſaid John Pye, during her natural life, payable half yearly, and alſo for ſecuring younger childrens portions as therein mentioned; by virtue of which ſaid laſt-mentioned indenture the ſaid John Orde and John Richardſon became and were ſeiſed of the ſaid tenements, with the appurtenances, in their demeſne as of fee upon the truſts and to the uſes before mentioned: And the ſaid George Forſter in fact ſays that the ſaid marriage was afterwards, to wit, on the thirteenth day of July, in the year of Our Lord 1741, at Morpeth aforeſaid, in the county aforeſaid, duly had and ſolemnized between the ſaid John Pye and Ann Marr, and after the ſolemnization thereof, and by virtue of the ſaid laſt-mentioned indenture, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid John Pye became and was ſeiſed of the ſaid tenements, with the appurtenances, in his demeſne as freehold, to wit, for the term of his natural life, in the time of peace, in the time of our ſaid lord George the Second, king of Great Britain, by taking the eſplees thereof to the value, &c. and being ſo ſeiſed the ſaid John Pye afterwards, to wit, on the firſt day of

June

June 1742, at Morpeth aforeſaid, died without heirs male of the body of the ſaid John Pye on the body of the ſaid Ann his wife begotten, and without heirs female of the body of the ſaid John Pye on the body of the ſaid Ann his wife begotten, ſave and except the ſaid Elizabeth Pye, the only child and heir of the ſaid John Pye on the body of the ſaid Ann his wife begotten, whereupon the ſaid Elizabeth Pye, ſubject to the ſaid term of one hundred years, by form of the gift aforeſaid, and by force of the ſtatute aforeſaid, became and was ſeiſed of the tenements aforeſaid, with the appurtenances, to wit, in her demeſne as of fee tail, in the time of peace, in the time of the ſaid late king George the Second, by taking the taking the eſplees thereof to the value, &c. the reverſion of the tenements aforeſaid belonging to the ſaid Thomas Pye and his heirs for ever: And the ſaid George Forſter further ſays, that the ſaid Elizabeth Pye being ſo ſeiſed as aforeſaid, and the ſaid reverſion belonging to the ſaid Thomas Pye as aforeſaid, he the ſaid Thomas Pye afterwards, to wit, on the thirteenth day of January, in the year of Our Lord 1753, at Morpeth aforeſaid, in the county aforeſaid, made his laſt will and teſtament in writing, and thereby (amongſt other things) did give and deviſe the ſaid reverſion of and in the ſaid tenements, with the appurtenances, to hold after the death of the ſaid John Pye, and default of iſſue male and female of the body of the ſaid John Pye on the body of the ſaid Ann Marr begotten as aforeſaid to the ſaid John Orde and his heirs, to the uſe of his grand-daughter the ſaid Elizabeth Pye for and during the term of her natural life, and from and after the deceaſe of the ſaid Elizabeth Pye to the firſt ſon of the ſaid Elizabeth Pye and the heirs male of ſuch firſt ſon lawfully to be begotten, and for default of ſuch iſſue then to the ſecond, third, fourth, fifth, and all and every other the ſons of the ſaid Elizabeth Pye lawfully to be begotten, and for default of ſuch iſſue then to the uſe and behoof of all and every the daughters of the body of the ſaid Elizabeth Pye, as tenants in common, and not as joint tenants, and for default of ſuch iſſue to Charles Stoddart for the term of his natural life, and failing him to the iſſue male of his body lawfully begotten or to be begotten, and failing ſuch iſſue to the ſaid George Forſter for his life, and after his death to the iſſue male of his body lawfully begotten or to be begotten, and afterwards, to wit, on the ſeventh day of April, in the year laſt aforeſaid, at Morpeth aforeſaid, in the county aforeſaid, died ſeiſed of the ſaid reverſion of the ſaid tenements, with the appurtenances, without altering or revoking his ſaid will, the ſaid John Orde, Elizabeth Pye, Charles Stoddart, and George Forſter him ſurviving, to wit, at Morpeth aforeſaid, in the the county aforeſaid, and the ſaid Charles Stoddart afterwards, to wit, on the firſt day of January, in the year of Our Lord 1770, and in the lifetime of the ſaid Elizabeth Pye, to wit, at Morpeth aforeſaid, died, leaving the ſaid Charles Stoddart his ſon and heir male of his body lawfully begotten, and without any other iſſue male of the body of the ſaid Charles Stoddart the father lawfully

iſſuing; and the ſaid Elizabeth being ſo ſeiſed as aforeſaid afterwards, to wit, on the firſt day of May, in the year of Our Lord 1771, at Morpeth aforeſaid, died without any iſſue of her body iſſuing, whereupon the ſaid tenements, with the appurtenances, by reaſon thereof, and by force of the ſtatute for transferring uſes into poſſeſſion, remained to the ſaid Charles Stoddart the ſon as the heir male of the body of the ſaid Charles Stoddart the father, and which ſaid Charles Stoddart the ſon afterwards, to wit, on the twenty-ſecond day of December, in the year of Our Lord 1780, at Morpeth aforeſaid, died without any iſſue male of his body lawfully iſſuing, and from the ſaid Charles Stoddart the ſon the right remaineth to the ſaid George Forſter the now demandant by form of the gifts aforeſaid, &c. and which after the deaths of the ſaid John Pye, and Elizabeth Pye, and Charles Stoddart the father, and Charles Stoddart ſon and heir male of the ſaid Charles the father, ought to remain to the ſaid George Forſter by form of the gifts aforeſaid, for that the ſaid John Pye died without heirs male of the body of the ſaid John Pye on the body of the ſaid Ann Marr his wife begotten, and without heirs female of the body of the ſaid John Pye on the body of the ſaid Ann Marr his wife begotten, ſave and except the ſaid Elizabeth Pye, and for that the ſaid Elizabeth Pye died without iſſue of her body iſſuing, and for that the ſaid Charles Stoddart the father left the ſaid Charles Stoddart his ſon and heir male of his body lawfully begotten, and died without any other iſſue male of the body of the ſaid Charles Stoddart the father lawfully iſſuing, and for that the ſaid Charles Stoddart the ſon died without any iſſue male of his body lawfully iſſuing; and therefore he brings ſuit, &c.

1ſt Plea. And the ſaid George Nelſon and Iſabel, by Thomas Meggiſon their attorney, come and defend their right, when, &c. and ſay, that the ſaid Thomas Pye did not give the ſaid reverſion of and in the tenements above demanded, with the appurtenances, failing the iſſue male of the body of the ſaid Charles Stoddart the father, to the uſe of the ſaid George Forſter for his life, and at his death to the iſſue male of his body lawfully begotten, as the ſaid George Forſter hath by his ſaid writ and declaration above ſuppoſed; and of this the ſaid George Nelſon and Iſabel put themſelves upon the

2d Plea. country, &c.: And the ſaid George Nelſon and Iſabel, for further plea in this behalf, by leave of the court here to them for that purpoſe firſt granted, according to the form of the ſtatute in ſuch caſe made and provided, ſay that the ſaid George Forſter ought not to have or maintain his aforeſaid action againſt them; becauſe they ſay, that after the making of the ſaid ſuppoſed deviſe by the ſaid Thomas Pye in form aforeſaid, and upon the death of the ſaid Thomas Pye, the ſaid Charles Stoddart the father in the ſaid declaration mentioned, by virtue of the ſaid deviſe, and by force of the ſtatue for transferring uſes into poſſeſſion, became and was ſeiſed of and in the ſaid reverſion of the tenements aforeſaid, with the appurtenances, in fee tail, that is to ſay, to him

and

and the heirs male of his body lawfully begotten, and the ſaid Charles Stoddart the father afterwards, to wit, on the firſt day of June, in the year of Our Lord 1754, at Morpeth aforeſaid, died ſeiſed of his ſaid eſtate tail of and in the ſaid reverſion of the tenements aforeſaid, with the appurtenances, leaving Charles Stoddart his eldeſt ſon and heir male of his body, and thereupon the ſaid reverſion of and in the tenements aforeſaid, with the appurtenances, deſcended and came to the ſaid Charles Stoddart the ſon as ſon and heir male of the body of the ſaid Charles Stoddart the father in the ſaid writ and declaration mentioned lawfully begotten, whereupon the ſaid Charles Stoddart the ſon became and was ſeiſed of and in the ſaid reverſion of the ſaid tenements, with the appurtenances, in his demeſne as of fee tail, and the ſaid Elizabeth Pye in the ſaid declaration mentioned afterwards, to wit, on the tenth day of November, in the year of Our Lord 1771, at Morpeth aforeſaid, died without iſſue, *whereupon the ſaid Charles Stoddart the ſon entered into the tenements aforeſaid, with the appurtenances, and became and was ſeiſed thereof in his demeſne as of fee tail*, that is to ſay, to him and the heirs male of his body lawfully begotten, and the ſaid Charles Stoddart the ſon being ſo ſeiſed thereof afterwards, to wit, on the thirtieth day of October, in the year of Our Lord 1772, at Morpeth aforeſaid, in the county aforeſaid, by a certain indenture made between the ſaid Charles Stoddart the ſon of the one part, and John Letteney, of Gray's Inn, in the county of Middleſex, gentleman, of the other part (one part of which indenture, ſealed with the ſeal of the ſaid Charles Stoddart the ſon, the ſaid George Nelſon and Iſabel now bring here into court, the date whereof is the ſame day and year laſt above mentioned), for the conſiderations therein mentioned, bargained and ſold unto the ſaid John Letteney (amongſt other things) the ſaid tenements above demanded, with the appurtenances, to have and to hold the ſame unto the ſaid John Letteney, his executors, adminiſtrators, and aſſigns, from the day of the date thereof for and during the term of one whole year from thence next enſuing and fully to be complete and ended; by virtue whereof, and of the ſtatute made for transferring of uſes into poſſeſſion, the ſaid John Letteney was poſſeſſed of the ſaid tenements, with the appurtenances, and the ſaid John Letteney being ſo poſſeſſed thereof, and the ſaid Charles Stoddart the ſon being ſo ſeiſed of and in the reverſion of the tenements aforeſaid, with the appurtenances, he the ſaid Charles Stoddart the ſon afterwards, to wit, on the thirty-firſt day of October, in the thirteenth year aforeſaid, at Morpeth aforeſaid, by a certain other indenture made between the ſaid Charles Stoddart the ſon of the firſt part, the ſaid John Letteney of the ſecond part, and Michael Pearſon, of Newcaſtle upon Tyne, eſquire, of the third part (one part of which laſt-mentioned indenture the ſaid George Nelſon and Iſabel now bring here into court, ſealed with the ſeal of the ſaid Charles Stoddart the ſon, the date whereof is the ſame day and year laſt above mentioned), for the conſiderations therein mentioned,

granted, bargained, ſold, aliened, releaſed, and confirmed unto the ſaid John Letteney, his heirs, and aſſigns (amongſt other things), the tenements aforeſaid above demanded, with the appurtenances, and the reverſion and reverſions, remainder and remainders thereof, to have and to hold the ſame unto the ſaid John Letteney, his heirs, and aſſigns for ever, as by the ſaid indenture of releaſe, amongſt other things, it more fully appears; by virtue whereof the ſaid John L. became and was ſeiſed of and in the tenements aforeſaid, with the appurtenances, in his demeſne as of fee, and being ſo ſeiſed thereof one Michael Pearſon, eſquire, afterwards, to wit, in the term of the Holy Trinity, in the twelfth year of the reign of his preſent majeſty, in the court of our ſaid lord the preſent king of the bench at Weſtminſter, in the county of Middleſex, before ſir William de Grey, knight, and his brethren, then the juſtices of our ſaid lord the king of the bench, impleaded the ſaid John Letteney in a plea of land of the ſaid tenements, with the appurtenances (among other things), by a writ of our ſaid lord the king of *entry ſur diſſeiſin en le poſt*, there returnable in the ſame court, and duly returned, and the ſaid John Letteney party to the ſame writ in the ſame court then duly appearing, and the ſaid John Letteney being tenant of the ſaid tenements, with the appurtenances, as above mentioned, the ſaid Michael Pearſon then declaring upon the ſaid writ in his proper perſon demanded againſt the ſaid John Letteney (amongſt other things) the ſaid tenements, with the appurtenances, in Morpeth, in the pariſh of Morpeth, as his right and inheritance, and into which the ſaid John Letteney had not entry, unleſs after the diſſeiſin which Hugh Hunt thereof unjuſtly and without judgment made on the ſaid Michael within thirty years, &c. and whereupon he then ſaid that he himſelf was ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right, in time of peace, in the time of our ſaid lord the preſent king, by taking the profits thereof to the value, &c. and into which, &c. and therefore he brought ſuit, &c. and the ſaid John Letteney in his proper perſon came and defended the right, when, &c. and thereupon vouched to warranty the ſaid Charles Stoddart the ſon to be ſummoned in the county aforeſaid, and the ſaid C. S. the ſon had there in eight days of Saint Martin, by the aid of the court, &c. the ſame day was given there to the parties aforeſaid, &c. and upon that the ſaid John L. appointed in his ſtead Rowland Lickbarrow and William Cuthbert his attornies jointly and ſeverally againſt the ſaid Michael to gain or loſe of the plea aforeſaid, &c. at which day there came as well the ſaid Michael in his proper perſon as the ſaid John Letteny by the ſaid Rowland Lickbarrow his attorney, and the ſaid Charles Stoddart the ſon being ſummoned, &c. likewiſe came by Robert Lewis his attorney, and freely warranted the ſaid tenements, with the appurtenances, to the ſaid John Letteney, &c. thereupon the ſaid Michael demanded againſt Charles Stoddart the ſon, tenant by his own warranty, the tenements aforeſaid, with the appurtenances, in form aforeſaid, &c.

&c. and whereupon he ſaid that he was ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right, in the time of peace, in the time of our ſaid lord the preſent king, by taking the profits thereof to the value, &c. and into which, &c. and therefore he brought ſuit, &c. and the ſaid C. S. tenant by his own warranty, then defended his right, when, &c. and further vouched to warranty Thomas Francis Martin, who was then likewiſe preſent in court in his proper perſon, and freely warranted the tenements aforeſaid, with the appurtenances, to him, &c. and thereupon the ſaid Michael demanded againſt the ſaid Thomas Francis, tenant by his own warranty, the tenements aforeſaid, with the appurtenances, and thereupon he ſaid that he himſelf was ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right, in time of peace, in the time of our ſaid lord the preſent king, by taking the profits thereof to the value, &c. and into which, &c. and therefore he brought ſuit, &c. and the ſaid Thomas Francis, tenant by his own warranty, defended his right, when, &c. and ſaid that the aforeſaid Hugh Hunt did not diſſeiſe the aforeſaid Michael of the aforeſaid tenements, with the appurtenances, as the the ſaid Michael by his writ and declaration aforeſaid above ſuppoſed; and of that he puts himſelf upon the country; and thereupon the ſaid Michael prayed leave to imparl, and he had it, &c. and afterwards the ſaid Michael came again into the ſame court in the ſame term in his proper perſon, and the ſaid Thomas Francis, although ſolemnly demanded, did not come, but departed in contempt of the court, and made default; it was therefore then conſidered that the ſaid Michael recover his ſeiſin againſt the ſaid John Letteney of the tenements aforeſaid, with the appurtenances, and that the ſaid John Letteney ſhould have of the land of the ſaid Charles Stoddart the ſon to the value, &c. and that the ſaid Charles Stoddart the ſon ſhould further have of the land of the ſaid Thomas Francis to the value, &c. and that the ſaid Thomas Francis ſhould be in mercy, &c. and thereupon the ſaid Michael prayed the writ of our ſaid lord the preſent king to be directed to the then ſheriff of the county of Northumberland to cauſe a full ſeiſin of the tenements aforeſaid, with the appurtenances, to be delivered to him, and it was then granted to him, returnable in the ſame court forthwith, &c. afterwards, to wit, on the twenty-eighth day of November, in that ſame term, came into the ſaid court the ſaid Michael in his proper perſon, and the ſheriff, namely, Francis Blake, eſquire, then returned that he by virtue of the ſaid writ to him directed on the twenty-fourth day of the ſame month of November, did cauſe full ſeiſin of the tenements aforeſaid, with the appurtenances, to be delivered to the ſaid Michael, as by the ſaid writ he was commanded, as by the record and proceedings thereupon remaining in the court of our lord the preſent king of the bench here, to wit, at Weſtminſter aforeſaid, it more fully appears; And the ſaid George Nelſon and Iſabel further ſay, that

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the ſaid recovery was had and ſuffered as to the ſaid tenements, with their appurtenances, by the ſaid George Forſter above demanded to the uſe of the ſaid Charles Stoddart the ſon and his heirs, by virtue of which ſaid recovery, and by force of the ſtatute for transferring of uſes into poſſeſſion, the ſaid Charles Stoddart the ſon became and was ſeiſed in his demeſne as of fee of and in the ſaid tenements above demanded, with the appurtenances, the eſtate of which Charles Stoddart the ſon, of and in the ſame tenements, with the appurtenances, the ſaid George Nelſon and Iſabel now have, and on the day of ſuing out the original writ of the ſaid George Forſter had; and this they are ready to verify; wherefore they pray judgment whether the ſaid George Forſter ought to have or maintain his aforeſaid action againſt them, &c.

3d Plea. — And the ſaid George Nelſon and Iſabel, for further plea in this behalf by leave of the court here to them for this purpoſe firſt granted according to the form of the ſtatute in ſuch caſe made and provided, ſay, that the ſaid George Forſter ought not to have or maintain his aforeſaid action thereof againſt them; becauſe they ſay, that true it is that the ſaid Thomas Pye was ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee, as the ſaid George Forſter hath in his ſaid declaration above alledged; and that being ſo ſeiſed thereof, the ſaid Thomas Pye, on the ſaid fourth day of March in the year of Our Lord 1740, bargained and ſold the ſame to the ſaid John Orde and John Richardſon, to hold to them the ſaid John Orde and John Richardſon for the ſaid term of one year, as the ſaid George Forſter hath above alledged; and that by virtue of the ſaid demiſe, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid John Orde and John Richardſon became poſſeſſed of the tenements aforeſaid, with the appurtenances, the reverſion after the determination of the ſaid term of one year belonging to the ſaid Thomas Pye and his heirs, as the ſaid George Forſter hath in his ſaid declaration above alledged; but the ſaid George Nelſon and Iſabel farther ſay, that the ſaid John Orde and John Richardſon being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid Thomas Pye as aforeſaid, he the ſaid Thomas Pye afterwards, by a certain indenture bearing date the ſaid fifth day of March in the ſaid year 1740, releaſed the ſaid laſt-mentioned reverſion of the ſaid tenements, with the appurtenances, unto the ſaid John Orde and John Richardſon, their heirs and aſſigns, to the uſe and behoof of the ſaid Thomas Pye until the ſolemnization of a marriage then intended between the ſaid John Pye and Ann Marr, and from and after the ſolemnization of the ſaid intended marriage, to the uſe and behoof of the ſaid John Pye for and during the term of his natural life, and from and after the determination of that eſtate, then to the uſe and behoof of the ſaid John Orde and John Richardſon and their heirs, for and during the term of the natural life of the ſaid John Pye, and from and after the death of the ſaid John Pye, to the uſe and behoof of the ſaid Ann

Ann Marr and her aſſigns, for and during the term of her natural life, and from and after the determination of that eſtate to the uſe and behoof of the firſt ſon on the body of the ſaid Ann Marr to be begotten, and the heirs male of the body of ſuch firſt ſon lawfully to be begotten, with divers remainders over, by virtue of which laſt-mentioned releaſe the ſaid John Orde and John Richardſon became and were ſeiſed of the ſaid tenements, with the appurtenances, in their demeſne as of fee to the uſes before in that behalf mentioned: And the ſaid Ann Marr was afterwards, to wit, on the ſeventeenth day of July, in the year of Our Lord 1741, at Morpeth aforeſaid, duly had and ſolemnized between the ſaid John Pye and Ann Marr; and after the ſolemnization thereof, and by virtue of the ſaid laſt mentioned releaſe, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid John Pye became and was ſeiſed of the ſaid tenements, with the appurtenances, in his demeſne as of freehold, to wit, for the term of his natural life, the remainder thereof belonging as aforeſaid; and being ſo ſeiſed, the ſaid John Pye afterwards, to wit, on the firſt day of June 1742, at Morpeth aforeſaid, died, leaving the ſaid Ann his wife him there ſurviving, after whoſe death the ſaid Ann entered into the ſaid tenements, with the appurtenances, as into her ſaid remainder, and became and was thereof ſeiſed in her demeſne as of freehold, to wit, for the term of her natural life, the remainder thereof belonging as aforeſaid; and being ſo thereof ſeiſed, the ſaid Ann Marr afterwards, to wit, on the fifth day of September in the year of Our Lord 1754, at Morpeth aforeſaid, enfeoffed the ſaid George Nelſon and Iſabel of the ſaid tenements, with the appurtenances, to hold the ſame to the ſaid George Nelſon and Iſabel, and their heirs, to the uſe of the ſaid George Nelſon and Iſabel, and their heirs, for and during the term of the natural life of the ſaid Ann Marr; by virtue of which feoffment the ſaid George Nelſon and Iſabel, before and at the time of ſuing out the ſaid original writ of the ſaid George Forſter, were, and yet are ſeiſed of the ſaid tenements, with the appurtenances, in their demeſne as of freehold for the term of the natural life of the ſaid Ann Marr; without this, that the ſaid indenture of releaſe in the ſaid declaration mentioned is the deed of the ſaid Thomas Pye, in manner and form as the ſaid George Forſter hath above alledged; and this the ſaid George Nelſon and Iſabel are ready to verify; wherefore they pray judgment whether the ſaid George Forſter ought to have or maintain his aforeſaid action thereof againſt them, &c. And the ſaid George Nelſon and Iſabel, for further plea in this behalf by like leave of the court here to them for this purpoſe firſt granted according to the form of the ſtatute in ſuch caſe made and provided, ſay, that the ſaid George Forſter ought not to have or maintain his aforeſaid action againſt them; becauſe they ſay that true it is that the ſaid Elizabeth Pye was ſeiſed of the tenements aforeſaid, with the appurtenances, in her demeſne as of fee tail in manner and form as the ſaid George Forſter hath in his ſaid declaration

Laſt Plea.

declaration above alledged; but the ſaid George Nelſon and Iſabel further ſay, that the ſaid Elizabeth being ſo ſeiſed thereof, afterwards, to wit, on the tenth day of February in the year of Our Lord 1771, at Morpeth aforeſaid, intermarried with and took to huſband one George Munro, by reaſon whereof the ſaid George Munro and Elizabeth, in right of the ſaid Elizabeth, became and were ſeiſed of the tenements aforeſaid, with their appurtenances, in their demeſne as of fee tail, to wit, to them and the heirs female of the body of the ſaid Elizabeth; and being ſo thereof ſeiſed, the ſaid George Munro and Elizabeth his wife, afterwards, to wit, on the tenth day of November in the year of Our Lord 1771, at Morpeth aforeſaid, had iſſue female between them lawfully begotten, to wit, Munro; and the ſaid George Munro and Elizabeth his wife, being ſo ſeiſed of the tenements aforeſaid, with the appurtenances, the ſaid Elizabeth afterwards, to wit, on the eleventh day of November in the ſaid year of Our Lord 1771, at Morpeth aforeſaid, died ſo ſeiſed of ſuch her ſaid eſtate, after whoſe death the ſaid George held himſelf in the ſaid tenements, with the appurtenances, and was thereof ſeiſed in his demeſne as of freehold for the term of his life as tenant thereof by the law of England: And the ſaid George Munro being ſo thereof ſeiſed, afterwards, to wit, on the firſt day of January in the year of Our Lord 1777, at Morpeth aforeſaid, enfeoffed the ſaid George Nelſon and Iſabel of the ſaid tenements, with the appurtenances, to hold the ſame to the ſaid George Nelſon and Iſabel and their heirs, to the uſe of the ſaid George Nelſon and Iſabel and their heirs, for and during the term of the life of the ſaid George Munro, by virtue of which feoffment the ſaid George Nelſon and Iſabel before and at the time of the ſuing out the ſaid original writ of the ſaid George Forſter were and yet are ſeiſed of the ſaid tenements, with the appurtenances, in their demeſne as of freehold for the term of the life of the ſaid George Munro, with this, that the ſaid George Munro ſtill is in full life, to wit, at Morpeth aforeſaid; and this the ſaid George Nelſon and Iſabel are ready to verify; wherefore they pray judgment whether the ſaid George Forſter ought to have or maintain his aforeſaid action againſt them, &c.

Replication to 1ſt Plea. And the ſaid George Forſter as to the ſaid plea of the ſaid George Nelſon and Iſabel by them firſt above pleaded in bar, and whereof the ſaid George Nelſon and Iſabel have put themſelves upon the country, the ſaid George Forſter doth ſo likewiſe, &c.

Replication to 2d Plea. And as to the ſaid plea of the ſaid George Nelſon and Iſabel by them ſecondly above pleaded in bar, the ſaid George Forſter ſays, that he by reaſon of any thing by the ſaid George Nelſon and Iſabel in the ſaid plea alledged, ought not to be barred from having and maintaining his aforeſaid action thereof againſt them, becauſe proteſting that the ſaid plea by the ſaid George Nelſon and Iſabel ſecondly above pleaded in bar, and the matters therein contained, in the manner the ſame are above pleaded, are not

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ſufficient in law to bar the ſaid George Forſter from having and maintaining his aforeſaid action thereof againſt them, to which ſaid plea the ſaid George Forſter is not obliged by the laws of the land to anſwer; proteſting alſo that the ſaid Charles Stoddart the father, and Charles Stoddart the ſon, were not reſpectively ſeiſed of and in the ſaid reverſion of the tenements above demanded, with the appurtenances, as the ſaid George Nelſon and Iſabel have above in their ſaid plea by them ſecondly above pleaded in bar ſuppoſed; proteſting alſo that the ſaid Charles Stoddart the ſon did not by the ſaid indenture in the ſaid plea firſt above mentioned, bargain and ſell unto the ſaid John Letteney in the ſaid plea mentioned, the tenements above demanded, with the appurtenances, as by the ſaid plea is above alledged; proteſting alſo that the ſaid Charles Stoddart the ſon did not by the ſaid indenture in the ſaid plea laſtly above mentioned, grant, bargain, ſell, alien, releaſe, and confirm unto the ſaid John Letteney, his heirs and aſſigns, the tenements aforeſaid above demanded, with the appurtenances, and the reverſion and reverſions, remainder and remainders thereof as the ſaid George Nelſon and Iſabel have above in their ſaid plea ſecondly above pleaded alledged; proteſting alſo that the ſaid John Letteney was not at the time of purchaſing the ſaid writ of entry *ſur diſſeiſin en le poſt*, or at any time afterwards tenant of the tenements above demanded, with the appurtenances, as by the ſaid plea is alſo above alledged; proteſting alſo that no ſuch recovery of the tenements above demanded, with the appurtenances, was ſuffered or executed as by the ſaid plea is above ſuppoſed; nevertheleſs for replication in this behalf, the ſaid George Forſter as before ſays, that the ſaid Elizabeth Pye, after the death of the ſaid Thomas Pye, and after the death of the ſaid Charles Stoddart the father, by form of the gift in the ſaid writ and declaration firſt above mentioned, and by force of the ſtatute for transferring uſes into poſſeſſion, being ſeiſed of the tenements above demanded, with the appurtenances, in her demeſne as of fee tail as aforeſaid, the reverſion thereof belonging and remaining as by the ſaid will of the ſaid Thomas Pye is limited as above mentioned, afterwards, to wit, in Michaelmas Term, in the fourth year of the reign of our ſovereign lord the preſent king, in the court of our ſaid lord the king of the bench at Weſtminſter, a certain fine was in due manner levied in the ſaid court of our ſaid lord the now king of the bench before Charles Pratt, Edward Clive, Henry Bathurſt, and Henry Gould, juſtices of our lord the King, and others then and there, to wit, at Weſtminſter aforeſaid preſent, between one Roger Marr, by the name of Roger Marr, gentleman, plaintiff, and the ſaid Elizabeth Pye, by the name of Elizabeth Pye, ſpinſter, deforciant, of three meſſuages and four acres of land, with the appurtenances, in the pariſh of Morpeth, whereof the ſaid tenements above demanded, with the appurtenances, were and are part and parcel, whereupon a plea of covenant was ſummoned between them in the ſame court, that is to ſay, that the aforeſaid Elizabeth had acknowledged

ledged the aforeſaid tenements, with the appurtenances, to be the right of him the ſaid Roger, as thoſe which the ſaid Roger had of the gift of the aforeſaid Elizabeth, and thoſe ſhe had remiſed, and quit claimed from her and her heirs, to the aforeſaid Roger and his heirs for ever: And moreover the ſaid Elizabeth had granted for her and her heirs, that they would warrant to the aforeſaid Roger and his heirs the aforeſaid tenements, with the appurtenances, againſt her the ſaid Elizabeth and her heirs for ever, for which acknowledgment, remiſe, quit claim, warranty, fine, and agreement, the ſaid Roger had given to the aforeſaid Elizabeth ſixty pounds ſterling, which ſaid fine in form aforeſaid levied was then and there engroſſed, and afterwards in the ſaid court before the juſtices aforeſaid, according to the form of the ſtatute in that caſe made and provided, was publicly read and proclaimed in form following, that is to ſay, the firſt proclamation thereupon was made on the twenty-eighth day of November in Michaelmas Term aforeſaid, in the fourth year of the reign aforeſaid; the ſecond proclamation thereupon was made on the thirteenth day of February in Hilary Term, in the fourth year of the reign aforeſaid; the third proclamation thereupon was made on the firſt day of June in Eaſter Term in the fourth year of the reign aforeſaid; the fourth proclamation thereupon was made on the fourth day of July in Trinity Term, in the fourth year of the reign aforeſaid, as by the ſaid fine with the proclamations thereupon in form aforeſaid made remaining of record in the ſaid court of our ſaid lord the king of the bench at Weſtminſter aforeſaid may more fully and at large appear: And the ſaid George Forſter in fact further ſays, that in the ſaid times of reading the ſaid fine, and making the ſaid proclamations thereupon in form aforeſaid made all pleas in the ſaid court of our ſaid lord the king of the bench ceaſed, according to the form of the ſtatute in that caſe made and provided, which ſaid fine, with the proclamations aforeſaid, ſo levied as aforeſaid, was levied as to the ſaid tenements above demanded, with the appurtenances, to and for the uſe and behoof of the ſaid Elizabeth Pye, her heirs and aſſigns for ever, to wit, at Morpeth aforeſaid, by virtue of which ſaid fine, with the proclamations aforeſaid, the ſaid Elizabeth Pye became and was ſeiſed to her and to her heirs of ſuch eſtate in the ſaid tenements above demanded, with the appurtenances, as by force of the ſaid fine with proclamations aforeſaid, in form aforeſaid levied, paſſed to the ſaid Elizabeth Pye and her heirs: And the ſaid Elizabeth Pye being ſo ſeiſed of the tenements above demanded, with the appurtenances, ſhe the ſaid Elizabeth Pye afterwards, to wit, on the eighth day of February in the year of Our Lord 1771, at Morpeth aforeſaid, in the county aforeſaid, by a certain indenture then and there made between the ſaid Elizabeth Pye of the one part, and one William Orde and John Hepburn of the other part, which ſaid indenture was ſealed with the ſeal of the ſaid Elizabeth Pye, the date whereof is the ſame day and year laſt aforeſaid, for and in conſideration of a certain ſum of money

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therein mentioned, bargained and ſold (amongſt other things) the tenements aforeſaid above demanded, with the appurtenances, to the ſaid William Orde and John Hepburn, to hold to them the ſaid William Orde and John Hepburn, their executors, adminiſtrators, and aſſigns, from the day next before the day of the date of the ſaid indenture, for and during and unto the full end and term of one whole year from thence next enſuing, and fully to be complete and ended, by virtue whereof, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid William Orde and John Hepburn became poſſeſſed of the ſaid tenements above-demanded, with the appurtenances, the reverſion thereof after the determination of the ſaid term of one year belonging to the ſaid Elizabeth Pye and her heirs in form aforeſaid; and the ſaid William Orde and John Hepburn being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid Elizabeth Pye in form aforeſaid, ſhe the ſaid Elizabeth Pye afterwards, to wit, on the ninth day of February in the ſaid year of Our Lord 1771, at Morpeth aforeſaid, in the county aforeſaid, by a certain other indenture then and there made between the ſaid Elizabeth Pye of the firſt part, one George Munro of the ſecond part, and the ſaid William Orde and John Hepburn of the third part, which ſaid laſt-mentioned indenture was ſealed with the ſeal of the ſaid Elizabeth Pye, the date whereof is the ſame day and year laſt aforeſaid, the ſaid Elizabeth Pye, for the conſiderations therein mentioned, releaſed the ſaid reverſion laſt mentioned of the ſaid tenements above demanded, with the arppurtenances, by the reſpective names and deſcriptions of all that meſſuage, burgage, houſe or tenement, ſituate, ſtanding, and being in Morpeth aforeſaid, formerly in the tenure or poſſeſſion of Francis Rumney, and then in the tenure, occupation, or poſſeſſion of Thomas Harle, innkeeper, as tenant thereof, and alſo all that other meſſuage, burgage, houſe, or tenement, ſituate, ſtanding, and being in Morpeth aforeſaid, formerly in the tenure or poſſeſſion of Mary Loraine, widow, and then lately in the poſſeſſion or occupation of the ſaid John Hepburn, with their reſpective rights, members, and appurtenances, (ſubject with other things in the ſaid indenture mentioned, to the ſaid annuity or yearly rent charge of twenty pounds, payable to Ann the mother of the ſaid Elizabeth Pye during her natural life) unto the ſaid William Orde and John Hepburn and their heirs, to hold the ſame (ſubject as aforeſaid) unto the ſaid William Orde and John Hepburn and their heirs, to the uſe of the ſaid Elizabeth Pye, her heirs and aſſigns, until the ſolemnization of a marriage then intended to be had and ſolemnized between the ſaid Elizabeth Pye and George Munro, and from and after the ſolemnization of the ſaid intended marriage, then to the uſe of the ſaid George Munro and the ſaid Elizabeth his intended wife, for and during their natural lives, and the life of the longer liver of them without impeachment of or for any manner of waſte, remainder to the ſaid William Orde and John Hepburn and their heirs for and during the lives of the

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ſaid George Munro and Elizabeth his intended wife, and for and during the life of the ſurvivor of them, upon truſt to preſerve and ſupport the contingent uſes and eſtates therein-after limited, and from and after the death and deceaſe of the ſaid George Munro and the ſaid Elizabeth his intended wife, and the ſurvivor of them, then to the uſe and behoof of the firſt ſon on the body of the ſaid Elizabeth Pye lawfully to be begotten, and the heirs male of the body of ſuch firſt ſon lawfully to be begotten; and for default of ſuch iſſue then to the uſe and behoof of the ſecond ſon of the ſaid Elizabeth Pye lawfully to be begotten, and the heirs male of the body of ſuch ſecond ſon lawfully to be begotten; and for default of ſuch iſſue to the third, fourth, and fifth, and all and every other ſon and ſons of the body of the ſaid Elizabeth Pye to be begotten, and the heirs male of the bodies of ſuch ſons lawfully to be begotten, according to their ſeniority of age and priority of birth, ſeverally ſucceſſively one after another; and for default of ſuch iſſue then to the uſe and behoof of the heirs female of the body of the ſaid Elizabeth Pye lawfully to be begotten, and for default of ſuch iſſue then to the uſe and behoof of ſuch perſon and perſons, his, her, and their heirs and aſſigns, as the ſaid Elizabeth Pye, either ſole or married, and notwithſtanding her coverture by any deed or deeds, writing or writings, or by her laſt will and teſtament in writing, or any writing purporting her laſt will and teſtament, in the preſence of three or more credible witneſſes to be reſpectively executed ſhould direct or appoint, and for want thereof to the uſe and behoof of the right heirs of the ſaid Elizabeth Pye for ever: And the ſaid George Forſter in fact ſays, that the ſaid marriage between the ſaid George Munro and Elizabeth Pye was afterwards, to wit, on the ſame day and year laſt aforeſaid, at Morpeth aforeſaid, in the county aforeſaid, duly had and ſolemnized, and after the ſolemnization thereof, the ſaid George Munro and Elizabeth, according to the force and effect of the ſaid indenture of releaſe, and by force of the ſaid ſtatute for transferring uſes into poſſeſſion, became and were ſeiſed of the tenements above demanded, with the appurtenances of ſuch eſtate for the term of their natural lives, and the life of the longer liver of them, as by the ſaid fine with the proclamations aforeſaid, in form aforeſaid levied to the ſaid Elizabeth Pye and her heirs paſſed the remainders and reverſion thereof in form aforeſaid belonging; and being ſo ſeiſed, ſhe the ſaid Elizabeth, afterwards, to wit, on the twenty-eighth day of Auguſt in the year of Our Lord 1771, at Morpeth aforeſaid, in the county aforeſaid, made her laſt will and teſtament in writing, executed by her in the preſence of three credible witneſſes, and thereby, amongſt other things, did give and deviſe the ſaid reverſion of the ſaid tenements above demanded, with the appurtenances, unto her ſaid huſband George Munro, his heirs and aſſigns for ever, and afterwards, to wit, on the ſecond day of November in the ſaid year of Our Lord 1771, at Morpeth aforeſaid died, without altering or revoking her ſaid will, and without any iſſue of her body iſſuing, the ſaid George Munro her ſurviving, upon whoſe death the right in and

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to the ſaid tenements above demanded, with the appurtenances, by form of the gifts aforeſaid in the ſaid writ and declaration mentioned remained and came to the ſaid Charles Stoddart the ſon, as heir male of the ſaid Charles Stoddart the father, in form aforeſaid, to wit, at Morpeth aforeſaid: And the ſaid George Forſter further ſays, that after the death of the ſaid Elizabeth, without iſſue as aforeſaid, the ſaid George Munro by virtue of the ſaid fine, and of the ſaid indentures of leaſe and releaſe, and deviſe in form aforeſaid made, held himſelf in the ſaid tenements above demanded, with the appurtenances, for the ſpace of five years and more after the death of the ſaid Elizabeth without iſſue as aforeſaid, and after the action and title of the ſaid Charles Stoddart the ſon in and to the ſaid tenements above demanded, with the appurtenances, remained and came to him in form aforeſaid; and the ſaid George Munro before and at, and after the ſeveral times of making the ſaid indentures of leaſe and releaſe in the ſaid plea of the ſaid George Nelſon and Iſabel by them ſecondly above pleaded mentioned by the ſaid Charles Stoddart the ſon to the ſaid John Letteney, and alſo at the ſeveral times of purchaſing the ſaid writ of entry *ſur diſſeiſin en le poſt*, and obtaining judgment thereupon and long afterwards, continually was ſeiſed of the ſaid tenements above demanded, with the appurtenances, by pretence and colour of the ſaid fine and of the ſaid indentures of leaſe and releaſe and deviſe in form aforeſaid made, to wit, at Morpeth aforeſaid; And the ſaid George Forſter further ſays, that the ſaid Charles Stoddart the ſon, at the time of the death of the ſaid Elizabeth without iſſue as aforeſaid, was of the full age of twenty-one years and more, and of whole mind, at large, and not in any priſon, and within the four ſeas, and that the ſaid Charles Stoddart the ſon did not within five years next after the time that ſuch action and right in and to the ſaid tenements above demanded, with the appurtenances, accrued, remained, and came to him the ſaid Chares Stoddart the ſon as aforeſaid, or at any time afterwards, take his action or purſue his right and title in or to the ſaid tenements above demanded, with the appurtenances, according to the law, but wholly neglected ſo to do, and afterwards, and within five years next before the ſuing forth the ſaid original writ of the ſaid George Forſter, to wit, on the twenty-ſecond day of December, in the year of Our Lord 1780, at Morpeth aforeſaid, died without any iſſue male of his body lawfully iſſuing, and without having taken his ſaid action or purſued his ſaid right and title according to the law: And ſo the ſaid George Forſter ſays, that nothing of the ſaid tenements above demanded, with the appurtenances, paſſed from the ſaid Charles Stoddart the ſon to the ſaid John Letteney, by force of the ſaid indentures of leaſe and releaſe in the ſaid plea of the ſaid George Nelſon and Iſabel by them ſecondly above pleaded in bar mentioned, whereby the ſaid John Letteney at the time of purchaſing the ſaid writ of entry *ſur diſſeiſin en le poſt*, or at any time afterwards, was or could be made tenant of the freehold of the tenements above demanded,

with the appurtenances, wherefore from the ſaid Charles Stoddart the ſon the right remaineth to the ſaid George Forſter the now demandant by form of the gifts aforeſaid, &c.; and this the ſaid George Forſter is ready to verify; wherefore he prays judgment and ſeiſin of the tenements above demanded, with the appurte-

Replication to 3d Plea.

nances, to be adjudged to him, &c. And as to the ſaid plea of the ſaid George Nelſon and Iſabel by them thirdly above pleaded in bar the ſaid George Forſter ſays, that he by reaſon of any thing by the ſaid George Nelſon and Iſabel in the ſaid plea alledged ought not to be barred from having and maintaining his aforeſaid action thereof againſt them; becauſe he ſays, that the ſaid indenture of releaſe in the ſaid declaration mentioned is the deed of the ſaid Thomas Pye in manner and form as the ſaid George Forſter hath above alledged; and this he prays may be

Replication to laſt Plea.

inquired of by the country, &c.: And as to the ſaid plea of the ſaid George Nelſon and Iſabel by them laſtly above pleaded in bar the ſaid George Forſter ſays, that he by reaſon of any thing by the ſaid George Nelſon and Iſabel in the ſaid plea alledged, ought not to be barred from having and maintaining his aforeſaid action thereof againſt them, becauſe proteſting that the ſaid plea and the matters therein contained in the manner the ſame are above pleaded are not ſufficient in law to bar the ſaid George Forſter from having and maintaining his aforeſaid action thereof againſt them; proteſting alſo that the ſaid Elizabeth Pye was not after the time of the intermarriage of the ſaid Elizabeth Pye with the ſaid George Munro ſeiſed of the tenements above demanded, with the appurtenances, in her demeſne as of fee tail as by the ſaid plea is above ſuppoſed; proteſting alſo that the ſaid George Munro and Elizabeth his wife, in right of the ſaid Elizabeth, were not by reaſon of their ſaid intermarriage ſeiſed of the tenements above demanded, with the appurtenances in their demeſne as of fee tail as by the ſaid plea is above ſuppoſed; proteſting alſo that the ſaid George Munro and Elizabeth his wife had no iſſue between them lawfully begotten, as by the ſaid plea is above ſuppoſed; proteſting alſo that the ſaid George Munro did not hold himſelf in the ſaid tenements, and was thereof ſeiſed in his demeſne as of freehold for the term of his life, as tenant thereof by the law of England, as by the ſaid plea is above ſuppoſed; for replication in this behalf the ſaid George Forſter as before ſays, that the ſaid Elizabeth Pye after death of the ſaid Thomas Pye, and after the death of the ſaid Charles Stoddart the father by form of the gift in the ſaid writ and declaration firſt above-mentioned, and by force of the ſtatute for transferring uſes into poſſeſſion, being ſeiſed of the tenements above demanded, with the appurtenances, in her demeſne as of fee tail as aforeſaid, the reverſion thereof belonging and remaining by the ſaid will of the ſaid Thomas Pye, in manner as above-mentioned, afterwards and before the intermarriage of the ſaid Elizabeth Pye with the ſaid George Munro as in the ſaid plea is mentioned, to wit, in Michaelmas term, in the fourth year of the reign of our ſovereign lord the

preſent king, in the court of our ſaid lord the king of the bench at Weſtminſter, a certain fine was in due manner levied in the ſaid court of our ſaid lord the now king of bench before Charles Pratt, Edward Clive, Henry Bathurſt, and Henry Gould, juſtices of our lord the king of the bench aforeſaid, and others then and there, to wit, at Weſtminſter aforeſaid, preſent, between one Roger Marr, by the name of Roger Marr, gentleman, plaintiff, and the ſaid Elizabeth Pye, by the name of Elizabeth Pye, ſpinſter, deforciant of three meſſuages and four acres of land, with the appurtenances, in the pariſh of Morpeth, whereof the ſaid tenements above demanded, with the appurtenances, were and are part and parcel; whereupon a plea of covenant was ſummoned between them in the ſame court, that is to ſay, that the aforeſaid Elizabeth had acknowledged the aforeſaid tenements, with the appurtenances, to be the right of him the ſaid Roger, as thoſe which the ſaid Roger had of the gift of the aforeſaid Elizabeth, and thoſe ſhe had remiſed and quit claimed from her and her heirs to the aforeſaid Roger and his heirs for ever; and moreover the ſaid Elizabeth had granted for her and her heirs, that they would warrant to the aforeſaid Roger and his heirs the aforeſaid tenements, with the appurtenances, againſt her the ſaid Elizabeth and her heirs for ever, for which ſaid acknowledgments, remiſe, quit claim, warranty, fine, and agreement the ſaid Roger had given to the aforeſaid Elizabeth ſixty pounds ſterling, which ſaid fine in form aforeſaid levied was then and there engroſſed, and afterwards, in the ſaid court before the juſtices aforeſaid, according to the form of the ſtatute in that caſe made and provided, was publickly read and proclaimed in form following, that is to ſay, the firſt proclamation thereupon was made on the twenty-eighth day of November, in Michaelmas term aforeſaid, in the fourth year of the reign aforeſaid; the ſecond proclamation thereupon was made on the thirteenth day of February, in Hilary term, in the fourth year of the reign aforeſaid; the third proclamation thereupon was made on the firſt day of June, in Eaſter term, in the fourth year of the reign aforeſaid; the fourth proclamation thereupon was made on the fourth day of July, in Trinity term, in the fourth year of the reign aforeſaid, as by the ſaid fine, with the proclamations thereupon in form aforeſaid made remaining of record in the ſaid court of our ſaid lord the king of the bench at Weſtminſter aforeſaid, may more fully and at large appear: And the ſaid George Forſter in fact further ſays, that in the ſaid times of reading the ſaid fine and making the ſaid proclamations thereupon in form aforeſaid made all pleas in the ſaid court of our ſaid lord the king of the bench ceaſed, according to the form of the ſtatute in that caſe made and provided; which ſaid fine with the proclamations aforeſaid ſo levied as aforeſaid was levied as to the ſaid tenements above demanded, with the appurtenances, to the uſe and behoof of the ſaid Elizabeth Pye, her heirs and aſſigns for ever, to wit, at Morpeth aforeſaid; by virtue of which ſaid fine, with the proclamations aforeſaid, the ſaid Elizabeth Pye became and was ſeiſ-

Fine levied.

ed to her and to her heirs of ſuch eſtate in the ſaid tenements above demanded, with the appurtenances, as by force of the ſaid fine levied in manner aforeſaid, paſſed to the ſaid Elizabeth Pye and her heirs; and the ſaid Elizabeth Pye being ſo ſeiſed of the tenements above demanded, with the appurtenances, ſhe the ſaid Elizabeth Pye afterwards, to wit, on the eighth day of February, in the year of Our Lord 1771, at Morpeth aforeſaid, in the county aforeſaid, by a certain indenture then and there made between the ſaid Elizabeth Pye of the one part, and one William Orde and John Hepburn of the other part, which ſaid indenture was ſealed with the ſeal of the ſaid Elizabeth Pye, the date whereof is the ſame day and year laſt aforeſaid for and in conſideration of a certain ſum of money therein mentioned, bargained and ſold (amongſt other things) the tenements aforeſaid above demanded, with the appurtenances, to the ſaid William Orde and John Hepburn, to hold to them the ſaid William Orde and John Hepburn, their executors, adminiſtrators, and aſſigns, from the day next before the day of the date of the ſaid indenture for and during, and unto the full end and term of one whole year from thence next enſuing and fully to be complete and ended; by virtue whereof, and by force of the ſtatute for transferring uſes into poſſeſſion, the ſaid William Orde and John Hepburn became poſſeſſed of the ſaid tenements above demanded, with the appurtenances, the reverſion thereof, after the determination of the ſaid term of one year, belonging to the ſaid Elizabeth Pye and her heirs in form aforeſaid; and the ſaid William Orde and John Hepburn being ſo poſſeſſed thereof, and the reverſion thereof belonging to the ſaid Elizabeth Pye in form aforeſaid, ſhe the ſaid Elizabeth Pye afterwards, to wit, on the ninth day of February, in the ſaid year of Our Lord 1771, at Morpeth aforeſaid, in the county aforeſaid, by a certain other indenture then and there made between the ſaid Elizabeth Pye of the firſt part, one George Munro of the ſecond part, and the ſaid William Orde and John Hepburn of the third part, which ſaid laſt-mentioned indenture was ſealed with the ſeal of the ſaid Elizabeth Pye, the date whereof is the ſame day and year laſt aforeſaid, the ſaid Elizabeth Pye for the conſiderations therein mentioned releaſed the ſaid reverſion laſt-mentioned of the ſaid tenements above demanded, with the appurtenances, by the reſpective names and deſcription of all that meſſuage, burgage, houſe, or tenement, ſituate, ſtanding, and being in Morpeth aforeſaid, formerly in the tenure or poſſeſſion of Francis Rumney, and then in the tenure, occupation, or poſſeſſion of Thomas Harle, innkeeper, as tenant thereof; and alſo all that other meſſuage, burgage, houſe, or tenement, ſituate, ſtanding, and being in Morpeth aforeſaid, formerly in the tenure or poſſeſſion of Mary Loraine, widow, and then lately in the poſſeſſion or occupation of the ſaid John Hepburn, with their reſpective rights, members, and appurtenances, (ſubject with other things in the ſaid indenture mentioned to the ſaid annuity or yearly rent charge of twenty pounds, payable to Ann the mother of the ſaid Elizabeth Pye during

during her natural life), unto the ſaid William Orde and John Hepburn, and their heirs, to hold the ſame (ſubject as aforeſaid) unto the ſaid William Orde and John Hepburn, and their heirs, to the uſe of the ſaid Elizabeth Pye, her heirs and aſſigns, until the ſolemnization of a marriage then intended to be had and ſolemnized between the ſaid Elizabeth Pye and George Munro, and from and after the ſolemnization of the ſaid intended marriage then to the uſe of the ſaid George Munro and the ſaid Elizabeth his intended wife, for and during their natural lives and the life of the longer liver of them, without impeachment of or for any manner of waſte, remainder to the ſaid William Orde and John Hepburn, and their heirs, for and during the lives of the ſaid George Munro and Elizabeth his intended wife, and for and during the life of the ſurvivor of them upon truſt to preſerve and ſupport the contingent uſes and eſtates thereinafter limited, and from and after the death and deceaſe of the ſaid George Munro and the ſaid Elizabeth his intended wife, and the ſurvivor of them, then to the uſe and behoof of the firſt ſon on the body of the ſaid Elizabeth Pye lawfully to be begotten, and the heirs male of the body of ſuch firſt ſon lawfully to be begotten, and for default of ſuch iſſue then to the uſe and behoof of the ſecond ſon of the ſaid Elizabeth Pye, lawfully to be begotten, and the heirs male of the body of ſuch ſecond ſon lawfully to be begotten, and for default of ſuch iſſue to the third, fourth, and fifth, and all and every other ſon and ſons of the body of the ſaid Elizabeth Pye to be begotten, and the heirs male of the bodies of ſuch ſons lawfully to be begotten, according to their ſeniority of age and priority of birth, ſeverally ſucceſſively one after another; and for default of ſuch iſſue then to the uſe and behoof of the heirs female of the body of the ſaid Elizabeth Pye lawfully to be begotten, and for default of ſuch iſſue then to the uſe and behoof of ſuch perſon and perſons, his, her, and their heirs and aſſigns, as the ſaid Elizabeth Pye, either ſole or married, and notwithſtanding her coverture by any deed or deeds, writing or writings, or by her laſt will and teſtament in writing, or any writing purporting her laſt will and teſtament, in the preſence of three or more credible witneſſes to be reſpectively executed, ſhould direct or appoint, and for want thereof to the uſe and behoof of the right heirs of the ſaid Elizabeth Pye for ever: And the ſaid George Forſter in fact ſays, that the ſaid marriage between the ſaid George Munro and Elizabeth Pye was afterwards, to wit, on the ſame day and year laſt aforeſaid, at Morpeth aforeſaid, in the county aforeſaid, duly had and ſolemnized, and after the ſolemnization thereof, the ſaid George Munro and Elizabeth, according to the force and effect of the ſaid indenture of releaſe, and by force of the ſaid ſtatute for transferring uſes into poſſeſſion, became and were ſeiſed of the tenements above demanded, with the appurtenances of ſuch eſtate, for the term of their natural lives, and the life of the longer liver of them, as by the ſaid fine with the proclamations aforeſaid, in form aforeſaid levied to the ſaid Elizabeth Pye and her heirs, paſſed the

remainders and reverſion thereof in form aforeſaid belonging; and being ſo ſeiſed ſhe the ſaid Elizabeth afterwards, to wit, on the twenty-eighth day of Auguſt, in the year of Our Lord 1771, at Morpeth aforeſaid, in the county aforeſaid, made her laſt will and teſtament in writing, executed by her in the preſence of three credible witneſſes, and thereby (amongſt other things) did give and deviſe the ſaid reverſion of the tenements above demanded, with the appurtenances, unto her ſaid huſband George Munro, his heirs and aſſigns for ever, to wit, on the ſecond day of November, in the ſaid year of Our Lord 1771, at Morpeth aforeſaid, died, without altering or revoking her ſaid will, and without any iſſue of her body iſſuing, the ſaid George Munro her ſurviving; upon whoſe death the right in and to the ſaid tenements above demanded, with the appurtenances, by form of the gifts aforeſaid in the ſaid writ and declaration mentioned, remained and came to the ſaid Charles Stoddart the ſon, as heir male of the ſaid Charles Stoddart the father in form aforeſaid, to wit, at Morpeth aforeſaid: And the ſaid George Forſter further ſays, that after the death of the ſaid Elizabeth Pye without iſſue as aforeſaid, the ſaid George Munro, by virtue of the ſaid fine, and of the ſaid indentures of leaſe and releaſe and deviſe in form aforeſaid made, held himſelf in the ſaid tenements above demanded, with the appurtenances: And the ſaid George Forſter further ſays, that the ſaid Charles Stoddart the ſon afterwards, and within five years next before the ſuing forth of the ſaid original writ of the ſaid George Forſter, to wit, on the twenty-ſecond day of December, in the ſaid year of Our Lord 1780, at Morpeth aforeſaid, died without any iſſue male of his body lawfully iſſuing, and from the ſaid Charles Stoddart the ſon, the right now remaineth to the ſaid George Forſter, the now demandant, by form of the gifts aforeſaid in the ſaid writ and declaration mentioned, in manner and form as the ſaid George Forſter has above declared againſt the ſaid George Nelſon and Iſabel; and this the ſaid George Forſter is ready to verify; wherefore he prays judgment and ſeiſin of the tenements above demanded, with the appurtenances, to be adjudged to him, &c.

Demurrer and rejoinder.

And the ſaid George Nelſon and Iſabel as to the ſaid plea of the ſaid George Forſter above pleaded by way of reply to the ſaid plea of the ſaid George Nelſon and Iſabel, by them ſecondly above pleaded in bar, ſay, that the ſaid plea of the ſaid George Forſter, and the matters therein contained, are not ſufficient in law for him the ſaid George Forſter to have or maintain his aforeſaid action thereof againſt the ſaid George Nelſon and Iſabel; to which ſame plea in manner and form as the ſame is above pleaded the ſaid George Nelſon and Iſabel are not under any neceſſity, nor in any wiſe bound by the law of the land to anſwer; and this they are ready to verify; wherefore for want of a ſufficient replication in this behalf the ſaid Gerge Nelſon and Iſabel pray judgment, and that the ſaid George Forſter may be barred from having and maintaining his aforeſaid action thereof againſt them, &c.:

And

And for cauſes of demurrer in law in this behalf the ſaid George Nelſon and Iſabel, according to the form of the ſtatute in ſuch caſe made and provided, ſhew to the court here theſe cauſes following, to wit, for that the ſame plea of the ſaid George Forſter above in reply pleaded does not either traverſe or confeſs, and avoid the matter alledged in the ſaid ſecond plea of the ſaid George Nelſon and Iſabel, nor does it directly anſwer the ſame, but by way of inference and argument only; and for that the matter aforeſaid ſo pleaded by way of reply is only matter of evidence, and ſhould not be ſo pleaded; and for that no material or concluſive iſſue can be taken upon the ſame plea of the ſaid George Forſter, or of any part therein contained; and for that the ſame plea is in other reſpects defective, inſufficient, and wants form, &c.: And the ſaid George Nelſon and Iſabel as to the ſaid plea of the ſaid George Forſter by him above pleaded by way of reply to the ſaid plea of the ſaid George Nelſon and Iſabel by them thirdly above pleaded in bar, and whereof the ſaid George Forſter prays it may be enquired of by the country; the ſaid George Nelſon and Iſabel do the like: And the ſaid George Nelſon and Iſabel as to the ſaid plea of the ſaid George Forſter by him above pleaded by way of reply to the ſaid plea of the ſaid George Nelſon and Iſabel by them laſtly above pleaded in bar, ſay, that the ſame plea of the ſaid George Forſter, and the matters therein contained are not ſufficient in law for him the ſaid George Forſter to have or maintain his aforeſaid action thereof againſt the ſaid George Nelſon and Iſabel, to which ſame plea in manner and form as the ſame is above pleaded the ſaid George Nelſon and Iſabel are not under any neceſſity, nor in any wiſe bound by the law of the land to anſwer; and this they are ready to verify; wherefore for want of a ſufficient replication in this behalf the ſaid George Nelſon and Iſabel pray judgment, and that the ſaid George Forſter may be barred from having and maintaining his aforeſaid action thereof againſt them, &c. Cauſes.

And the ſaid George Forſter ſays, that the ſaid plea by him above in reply pleaded to the ſaid plea of the ſaid George Nelſon and Iſabel by them ſecondly above pleaded in bar, and the matters therein contained, are ſufficient in law for him the ſaid George Forſter to have and maintain his aforeſaid action thereof againſt them; which ſaid replication, and the matters therein contained, he the ſaid George Forſter is ready to verify and prove, as the court here ſhall order: wherefore inaſmuch as the ſaid George Nelſon and Iſabel have not denied nor in any wiſe anſwered the matters contained in the ſaid replication, but the verification thereof to admit do wholly refuſe, he the ſaid George Forſter as before prays judgment and ſeiſin of the tenements above demanded, with the appurtenances, to be adjudged to him, &c.: And the ſaid George Forſter further ſays, that the ſaid plea by him above in reply pleaded to the ſaid plea of the ſaid George Nelſon and Iſabel by them laſtly above pleaded in bar, and the matters Joinder in demurrer.

therein contained, are ſufficient in law for him the ſaid George Forſter to have and maintain his aforeſaid action thereof againſt them; which ſaid replication, and the matters therein contained, he the ſaid George Forſter is ready to verify and prove as the court here ſhall order; wherefore inaſmuch as the ſaid George Nelſon and Iſabel have not denied, nor in any wiſe anſwered the matters contained in the ſaid replication, but the verification thereof to admit do wholly refuſe, he the ſaid George Forſter as before prays judgment and ſeiſin of the tenements above demanded, with the appurtenances, to be adjudged to him, &c.; but becauſe the ſaid juſtices here will adviſe amongſt themſelves of and upon the premiſes whereon the ſaid parties have put themſelves upon the judgment of the court before they give their judgment thereon, day is given unto the ſaid parties here until in three weeks from the day of the Holy Trinity to hear judgment thereupon, for that the ſaid juſtices here are not yet fully adviſed thereon, &c.; And as to the trying of the ſaid iſſues above joined between the ſaid parties to be tried by the country the ſheriff is commanded to cauſe to come here in three weeks from the day of the Holy Trinity aforeſaid, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. the ſame day is given to the parties here, &c.; at which day here come as well the ſaid George Forſter, by his attorney aforeſaid, as the ſaid George Nelſon and Iſabel, by their attorney aforeſaid; and becauſe the juſtices here will further adviſe amongſt themſelves of and upon the premiſes whereon the ſaid parties have put themſelves upon the judgment of the court before they give their judgment thereon, day is given unto the ſaid parties here until the morrow of All Souls, to hear their judgment of and concerning the premiſes aforeſaid, for that the ſaid juſtices here are not yet fully adviſed thereon, &c.; and as to the trying the iſſues aforeſaid above joined between the ſaid parties to be tried by the country, the jury between the parties aforeſaid of the plea aforeſaid is reſpited thereupon between them until on the morrow of All Souls aforeſaid, unleſs the juſtices of the lord the king aſſigned to take the aſſizes in the county aforeſaid, by form of the ſtatute in ſuch caſe made and provided, ſhall before come on the day of Auguſt next following, at the of Newcaſtle-upon-Tyne, in the county aforeſaid, for default of the jurors, becauſe none came; therefore, &c.

Cur. ad vult.

Writ of formedon in deſcender.

GEORGE, &c. to, &c. command H. C. that juſtly and without delay he render to E. H. one undivided moiety of one meſſuage, &c. with the appurtenances, in , in your county, which R. H. the grandfather of the ſaid E. H. gave to J. W. and his heirs, to the uſe of the ſaid R. H. for his natural life, and after his deceaſe to the uſe of A. H. his then intended wife, in caſe the ſaid A. H. ſhould happen to ſurvive the ſaid R. H. her then intended huſband, for her natural life; and after the deceaſe of the ſaid R. H. and A. H. and the longeſt liver of them, to the uſe of the heirs

heirs of the ſaid R. H. that he ſhould beget on the body of the ſaid A. H. and for default of ſuch iſſue to the uſe of the right heirs of the ſaid R. H. and which after the death of the ſaid R. H. the grandfather, and the ſaid A. H. whom the ſaid R. H. the grandfather took to wife, and of R. H. the ſon and heir of the ſaid R. H. the grandfather, by him lawfully begotten on the body of the ſaid A. H. to the ſaid E. H. the ſon and heir of the ſaid R. H. the father, by form of the gift aforeſaid, by force of the ſtatute for transferring uſes into poſſeſſion, ought to deſcend as he ſaith, and unleſs he ſhall ſo do, and the ſaid E. H. ſhall give you ſecurity that his ſuit ſhall be proſecuted, then ſummons by good ſummoners the ſaid H. C. that he be before our juſtices at Weſtminſter, on , to ſhew why he will not do it. And have you there the ſummoners and this writ. Witneſs ourſelves at Weſtminſter, the, &c.

E. WOODCOCK.

By J. B. one of our maſters of the court of chancery, affidavit being made that the tenements within written do not exceed the yearly value of ten pounds.

Received for the fine thirteen ſhillings and fourpence.

J. C. deputy clerk, Hanaper.

By virtue of this writ to me directed I did on day of in the year within mentioned perſonally ſummon the within named H. C. to be before our juſtices within named, at the place and on the day within mentioned, to render to the within named E. H. the moiety of the meſſuages and premiſes within mentioned as I am within commanded.

Pledges, { John Doe and Richard Roe. }

Summoners, { RICHARD HOPE and THOMAS BLAKE. }

JOHN COOKE, eſquire, ſheriff.

Make an affidavit before a maſter in chancery of the value of the lands, which is done by ſwearing that they do not exceed the yearly value of pounds. Apply to the curſitor of the county where the lands lie, who will make a writ of formedon which muſt be compounded at the Hanaper Office, No 6, Coney-court, Gray's Inn. Mr. C. is the deputy clerk. You pay at the rate of 1s. 4d. per pound for the value ſworn to.

When you have compounded the writ carry it back to the curſitor, who will get it ſealed. Care muſt be taken to have fifteen days between the teſte and the return of the writ; but there is no neceſſity to have four returns between, as generally imagined, by the curſitor, the late Act of Parliament 24. G. 2. for ſhortening returns rendering it unneceſſary.

The ſtatute 13. Ed. 1. gives the writ of formedon, and the ſubſequent ſtatute 28. Edw. 1. ſ. 3. and 15. directs that in all ſummonſes and attachments in a plea of land the ſummons and attachment ſhall contain at leaſt fifteen days. The ſtatute 31 Eliz. c. 2. ſ. 2. that after every ſummons upon the land in any real action a proclamation ſhall be made at the church door fourteen days before the return of the ſummons. You muſt firſt ſummons the defendant by real ſummoners, and on the ſummoning day following make proclamation at the church door where the lands lie.

You muſt then get the ſheriff's return to the writ, and care muſt be taken that that he returns the proclamation; for without that you cannot proceed to a *diſtringas* in caſe the defendant does not appear. The ſheriff muſt alſo return good

Inſtructions how to proceed previous to and after the iſſuing the formedon in deſcender.

good ſummoners, not John Doe and Richard Roe.

If the tenant cannot be found you may fix a ſummons upon the houſe or land At the return of the writ the tenant may caſt one eſſoign under the late Act of Parliament, and the demandant muſt take care to join in the eſſoign, or a *non proſ.* may be ſigned.

This eſſoign was adjourned to the day of E. in the year, &c. The tenant in this caſe entered his appearance with the filacer at the return day of that eſſoign, and a declaration was delivered to his attorney, and the common rule to plead was given on the fourth day afterwards. The tenant's attorney pleaded a plea in abatement. that theſe lands were ancient demeſne, but as he did not file an affidavit of the truth of the plea, demandant moved the court (at the expiration of a common rule for a peremptory rule to plead) and the ſame was drawn up with the ſecondary, and was ſerved upon the tenant's attorney,

This rule was given on the Thurſday and expired on the Monday following. After the ſervice the tenant's attorney took out a ſummons before ſir J. Yates, for time to plead. Demandant oppoſed the granting any further time, and inſiſted that a judge had no power at chambers to give the tenant time to plead after the expiration of a peremptory rule, which being an act of the court diſabled the judge at chambers to allow further time; but that the tenant was under the neceſſity of applying to the court for time to plead, and ſir J. Yates concurred in that opinion and refuſed to make an order.

The tenant being thus circumſtanced pleaded *non dedit*, that otherwiſe demandant would have ſigned judgment for want of a plea (if tenant had not applied to the court for time), as the firſt plea of ancient demeſne was a plea in abatement, and no affidavit of truth, &c.

The iſſue was made up by demandant's attorney as in common caſes, and gave notice of trial for the next aſſizes at , but tenant did not venture a trial, withdrew his plea, gave judgment, and demandant took out a *writ of ſeiſin*, and cauſed the ſame to be executed and poſſeſſion to be delivered by the ſheriff to the demandant.

Seiſin of lands recovered by formedon in deſcender.

GEORGE, &c. to, &c. Whereas E. H. lately in our court before our juſtices at Weſtminſter recovered his ſeiſin againſt H. C. of one undivided moiety of one meſſuage, &c. with the appurtenances, in , in your county, by our writ of formedon in deſcender, therefore we command you that you cauſe the ſaid E.H. to have full ſeiſin of the moiety of the tenements aforeſaid, with the appurtenances, without delay; and how you ſhall execute this our precept make appear to our juſtices at Weſtminſter in fifteen days of St. Hilary; and have there this writ. Witneſs, &c.

DICKENS.

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WRIT OF RIGHT.

[The following draft and caſe (with the latter of which Mr. Marryatt's obſervations and opinion, and a ſtatement of the facts to him are ſtated) was laid before Mr. Serjeant Hill for his peruſal and advice.]

Writ of cozenage & or of right."

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the ſheriffs of London, greeting: Command James Lloyd, that juſtly and without delay he render unto Richard Hoddeſden two meſſuages, and two gardens, with the appurtenances, in the ſeveral pariſhes of St. Mary Woolnoth, in the ward of Walbrook, and of St. Andrew Underſhaft, in the ward of Lime-ſtreet, whereof Catherine Hibbins the couſin of the ſaid Richard, whoſe heir he is, was ſeiſed in her demeſne as of fee upon the day wherein ſhe died, as he ſaith, "which he claims to be his right and inheritance, and whereof he complains that the ſaid James unjuſtly deforces him;" and unleſs he ſhall do ſo, and if the ſaid Richard ſhall give you ſecurity to proſecute his claim, then ſummon by good ſummoners the ſaid James that he be before our juſtices at Weſtminſter, on the morrow of the Purification, to ſhew wherefore he has not done it; and have you there the ſummoners and this writ. Witneſs ourſelf at Weſtminſter, the fifteenth day of January, in the twenty-ninth year of our reign.

There was no actual garden but a ſmall yard behind each of the houſes.

QUERY. Whether any mention ſhould be made of the huſband, who had a joint ſeiſin with her in her right, until the time of her death?

ANSWER. This may be proper to be mentioned in the Count, at leaſt I think it can do no hurt there; but the pedigree is I think not neceſſary to be ſtated in the writ, much leſs is this fact neceſſary. G. HILL.

NOTE. The tenant or defendant ſhould be really ſummoned upon the land (1. Mod. 248.) and the ſummons be proclaimed at the moſt uſual doors of the churches in the reſpective pariſhes where the premiſes are ſituate (or at leaſt one of them), on a Sunday, fourteen days before the return of the writ, 31. Eliz. c. 3.; the return muſt therefore be filled up ſo as to leave ſufficient time for that purpoſe,

S. MARRYATT.

On the twenty-third of Auguſt 1758, Mrs. Catherine Culver, being ſeiſed in fee of ſome eſtates in poſſeſſion, and of others in reverſion, and being about to intermarry with Dr. James Hibbins, the following agreement was entered into, and ſigned by each of them upon unſtamped paper:

Whereas a marriage is ſhortly to be conſummated between James Hibbins of London, doctor in phyſick, and Catherine Culver of the pariſh of Rumford, in the county of Eſſex, widow, who is entitled to a conſiderable fortune, conſiſting of ready money, outſtanding debts, ſtocks in the funds, leaſehold and freehold houſes, eſtates in London, in the counties of Middleſex, Eſſex, &c.; and alſo plate, linen, china, and jewels: It is therefore agreed between them as follows, viz. That the ſaid Catherine Culver's fortune ſhall be ſettled or remain to their joint uſe, for her life or the life of the longeſt liver, and if ſhe ſhall ſurvive the ſaid James Hibbins, her whole fortune, together with her plate, linen, china, and jewels to be ſettled to her own uſe, and if the ſaid Catherine Culver ſhall happen to die firſt, then the aforeſaid fortune to be at her diſpoſal; and both parties do agree that proper ſettlement deeds to the effect and purport above-mentioned ſhall be prepared between them when the ſame can conveniently be got ready. In witneſs whereof the above parties to the ſaid agreement have ſet their hands this twenty-third of Auguſt 1758.

On the ſame day Mrs. Culver executed a will, atteſted by three witneſſes, in which ſhe deviſed the principal part of her property to her intended huſband James Hibbins in fee; and immediately after the before-mentioned agreement had been ſigned and will executed the marriage between Dr. Hibbins and Mrs. Culver was ſolemnized, by which ſolemnization her will was in point of law revoked. No deeds were ever executed in purſuance of the above agreement, and in February 1759 Mrs. Hibbins died without iſſue, leaving Mary then the wife of Rich. Brazier and Mr. Rich. Hoddeſden her co heirs at law, as will appear by the following ſketch of the pedigree:

In January 1762 Mrs. Brazier died covert and without iſſue. and Mr. Hoddeſden was heir at law, and is now ſole heir to Mrs. Hibbins.

Richard Hayward
of Falsfield.

Richard Hayward
of Chiddingſtone died in
the lifetime of Mrs. Hibbins.

Richard Hayward
of Woldingham died in
the lifetime of Mrs. Hibbins.

Mary married to Richard Brazier, ſurvived Mrs. Hibbins, and in January 1762 died covert, having had two ſons, both of whom died in her lifetime.

William Hayward.

Catherine married firſt to Abraham Culver, and afterwards to Dr. James Hibbins, died *ſeiſed*, covert, and without iſſue in February 1759.

Alice married to Thomas Hoddeſdon died covert in Mrs. Hibbins's lifetime, leaving

Richard Hoddeſden
her eldeſt ſon.

Im-

Immediately on Mrs. Hibbins's death her husband the doctor proved her will (of which he was appointed sole executor), and entered upon such of the real estates she died actually seised of as had been bequeathed to him. In October 1768 her reversion of the other estates (which were also bequeathed to the doctor) fell in, and he thereupon entered upon those also, and continued in possession for many years, without any idea on the part of Mr. Hoddesden of the doctor's title being disputable.

About the year 1772 Mr. Hoddesden having heard that a person who had contracted with Dr. Hibbins for the purchase of one of his wife's estates had refused to complete the contract on account of the doctor's inability to make a proper title, began to enquire what title the doctor claimed. Several meetings between them took place in consequence, and the doctor setting up his claim under the above agreement and will, and Mr. Hoddesden's then attorney expressing his doubts as to the validity of such a title, it was at length, about January 1775, agreed that copies of the agreement and will should be laid before the then Solicitor Gen. (now Lord High Chancellor L.) for his opinion as to their operation upon the freehold estates. Mr. Hoddesden was afterwards informed that the Solicitor General's opinion was that the doctor was entitled to a life estate, but that at his decease the heir at law might claim, and in his judgment would succeed. The doctor was afterwards requested to let the matter be adjusted by an amicable bill but refused. No legal steps however were taken by Mr. Hoddesden during the doctor's lifetime on account of Lord Loughborough's opinion, that the doctor was entitled for life, although the consent of the doctor to take such opinion hardly amounted to an agreement to be bound by it.

In October 1777 Dr. James Hibbins died, having by will, dated March 1774, devised the premises in question to James Lloyd for life, with several limitations over; and the rents that have been paid since the doctor's death have been received for the use of his devisee, who is an infant, by Mr. George Lloyd his uncle, under a power of attorney from the guardians appointed for him in the will of his father who was dead.

After the death of the Doctor Mr. Hoddesden, conceiving that as heir to Mrs. Hibbins or Mrs. Brazier, he was become entitled to the whole of Mrs. Hibbins's real estate, filed a sort of ejectment bill in chancery, praying that he might be let into possession, and the title deeds delivered up, and the rents and profits accounted for and paid to him. A cross suit was instituted by the devisee, praying that the two wills of Mrs. Hibbins and the doctor might be established, and he be quieted in possession. Mr. Hoddesden's heirship being controverted on the one hand, and on the other the agreement and will being insisted to be forgeries, a number of witnesses were examined, and the causes did not come to a hearing till November 1787, when the Chancellor, though strongly of opinion that the will (if actually executed by Mrs. Hibbins) was revoked even in equity by her subsequent marriage, yet as there was considerable evidence to impeach its execution in point of fact and as the heirship of Mr. Hoddesden was disputed, reserved his judgment till the parties should have proceeded to a trial and verdict at law.

In consequence of this direction ejectments were brought in last Hilary term for such of the estates as Mrs. Hibbins had been seised in *reversion*, the limitations preceding her reversion having determined only in October 1768, which was within twenty years; and Mr. Hoddesden's right of entry not having been taken away by the death of Dr. Hibbins (even supposing that his entry was an *abatement*), inasmuch as although he died seised the estate did not *descend* at his death, but passed by the *devise* in his will, 1. Ro. Abr. 626. l. 30.

One of these ejectments was carried to trial (it having been agreed between the attornies, that the others should abide the event), and a special verdict being found ascertaining the heirship of Mr. Hoddesden, and finding the agreement and will to be genuine, the cause came on to be argued in the court of king's bench last Michaelmas term, and all the judges were of opinion that the marriage was clearly a revocation of the will, and that the previous agreement could not give effect to it at law, and they therefore gave judgment for the lessor of the plaintiff. The case is reported in

2. Durn-

1. Term Reports, 684.——Judgments have alſo been entered by *retraxit* of the pleas in the other ejectments, but Mr. Hoddeſden has not iſſued any writ of poſſeſſion.

It remains to be conſidered by what means the other freehold eſtates which Mrs. Hibbins was in actual ſeiſin of at the time of her death are to be recovered by Mr. Hoddeſden, ſhe having been dead almoſt thirty years. The counſel, who was concerned in the ejectments being conſulted, at firſt ſuggeſted *a writ of right*; but conſidering that neither damages nor coſts would be recoverable in that courſe of proceeding, he was deſirous of adopting ſome other remedy that was free from thoſe objections. It afterwards occurred to him that an *ejectment* might perhaps be maintained upon an idea (founded principally on ſome expreſſions of lord Mansfield, in 5. Burr. 2607) that it is queſtionable whether the poſſeſſion of Dr. Hibbins, under the marriage agreement (which gave him a *clear equitable eſtate* for life) was ſuch an adverſe poſſeſſion, as the ſtatute of limitations in bar of an ejectment will attach upon. Suppoſing thoſe expreſſions of lord Mansfield to be correctly right, the point here ſeems to reſolve itſelf into this viz. whether the entry of an equitable tenant for life amounts to an abatement; conceiving, however, that an ejectment in this inſtance would not only be an hazardous experiment in reſpect of coſts, but that even if it prevailed, only ſix years rent would be recoverable in a conſequential action for meſne profits, though more than eleven have elapſed ſince Dr. Hibbins's death, (previous to which Mr. Hoddeſden is adviſed that he has no equitable pretence to them) the counſel has ultimately recommended a writ of cozenage as the moſt eligible proceeding for Mr. Hoddeſden to have recourſe to; the motives for preferring it are not only that Mr. Hoddeſden will be at liberty to bring a writ of right afterwards, in caſe of a failure from any unforeſeen cauſe in the writ of cozenage, but becauſe the ſtatute of Glouceſter, c. 1. has expreſsly damages and coſts to a demandant recovering in ſuch a proceeding: and Mr. Hoddeſden's relationſhip ſeems to be within the degrees to which that writ is limited, Hale on F. N. B. 221. and 3. Black. Com. (9th edition), 186.

If, indeed, the proceedings in a *præcipe quod reddat* would be ſuſpended during the non-age of Dr. Hibbins's deviſee, who it is preſumed can alone be made tenant to it, an ejectment would be preferred, if it can be proſecuted with any reaſonable proſpect of ſucceſs: but it is conceived, that in a real action in this caſe, the parol ſhall not demur, becauſe the tenant, though an infant, is in either by purchaſe or intruſion, and not by *deſcent*, 3. Bac. Abr. 159.

The reading in moſt of the books on the ſubject of cozenage, (except Fitzherbert, where it forms a ſeparate title) is to be found under title *Ayel*; and the precedents of pleadings are referred to in Townſend's Tables, under the ſame head. The principal entries ſeem to be in Raſtall, 28 and 29, and Herne, 258.

Although the premiſes are ſituate in *London*, it is apprehended the writ of cozenage, or even of right, may be made returnable in the Common Pleas; and that neither of thoſe writs is confined to the city court of Huſtings, unleſs the city ſhould demand conuzance, F. N. B. 7. D. *See* Booth, 117. Com. Dig. title Droit. D.

The perſon who was tenant of one of the houſes at Dr. Hibbin's death, finding the title diſputable, refuſed paying rent to any body; and the deviſee durſt not bring an ejectment. Some years after he quitted it, and let another man into poſſeſſion, upon receiving a ſum of money as for good will, but without making any conveyance; and a third perſon is now in poſſeſſion, under a ſimilar purchaſe of the good will from the ſecond. No rent has therefore been paid for the houſe (which is a public one) ſince the doctor's death, either to his deviſee or any other perſon; but the preſent occupier ſays he is willing to account and pay rent for the time he has held it, being about five years, to the perſon legally entitled. Suppoſing, however, that Dr. Hibbins's deviſee having received no rent for this particular houſe, is therefore not a proper tenant to the *precipe* in reſpect of it, there is no perſon that can be made ſo; and the deviſee will find it difficult to plead *non tenure* of it in this

this instance, as a tenant pleading *non tenure* of *parcel only* must shew who else is the tenant; (1. Mod. 181.) and even if he should be able to do so, the writ would abate only *pro tanto*, 25 Edw. 3. c. 16.

Another of the houses happens at this time to be untenanted, as the late occupiers (who had a lease from the *guardians* of *Dr. Hibbins's devisee*) became bankrupts, and the assignees have surrendered up the term to the lessor.

QUERY 1st. Under these circumstances, Mr. Serjeant Hill is requested to advise whether an ejectment, writ of cozenage, writ of right, or any other proceeding, can be maintained by Mr. Hoddesden for the estates that Mrs. Hibbins died in actual seisin of; 2dly, and whether the tenant, after a judgment in cozenage, can enter any suggestion that will preclude the demandant from recovering damages for more than the last six years; 3dly, and whether Mr. Hoddesden's taking a moiety only by immediate descent from Mrs. Hibbins, and the other moiety vesting in Mrs. Brazier, and descending to him afterwards, will make any difference with respect to the remedy, either for the whole or for a moiety; 4thly, if a writ of cozenage or right be proper, he will please to settle the draft of that which he prefers. His opinion is also requested, 5thly, *whether* a real action for premises in London is necessarily confined to the city courts, or may be brought in the C. B. at the demandant's option; 6thly, *whether* Dr. Hibbins's devisee, or any other person should be made tenant to the *precipe* for the public house, which no rent has been paid for since the doctor's death; 7thly, in what manner the summons is to be made respecting the house that is vacant; 8thly, whether if the infant tenant should neglect to appear at the return of the summons, the demandant can enter a *ne recipiatur* of an *essoin*, issue a writ of *grand cape*, and proceed to judgment until a guardian is appointed for him; 9thly, *in what manner*, and in what stage of the proceeding (if at all) the demandant should proceed to get such appointment, 10thly, *whether* if the tenant should duly appear, the parol can demur on account of his non-age; 11thly, and generally to advise upon such matters as may be material.

OPINION—"I think it far from "being clear that the *equitable* title to "the estate in question, as well as to "that which has been already recovered by the judgment on the special verdict, 2. Term Rep. 684. is "not in those claiming under Dr. "Hibbins; for, as observed by lord "Kenyon, 2. Term Rep. 695. it is "not now to be doubted but that a "court of equity will carry into execution to the prejudice of the heir of "a *feme covert*, a disposition made "by her by virtue of a bare agreement before marriage for enabling "her to make such disposition: before the case of Wright *v.* lord "Cadogan, it was holden that a *feme covert* could not devise her real "estate but in two cases; first, where "the same was before marriage conveyed to trustees to such uses as she "notwithstanding coverture should "appoint; or secondly, where after "marriage the same was by her and "her husband so conveyed by fine "(or recovery); but in that case the "legal estates was in trustees, and "therefore the agreement previous "to the marriage, and the will, operated as a declaration of the trusts "of the legal estate, and therefore no "need to make a new conveyance, "the wife not having any legal estate "to convey; and the only difference "between that and the common case "where the wife, previous to marriage, conveys her estate to trustees "to such uses, &c. as she by deed "or will, &c. shall appoint; and "the case of Wright *v.* lord Cadogan "is that in the former case the legal "estate is conveyed, and the trusts "declared by one and the same deed; "whereas in the case of Wright *v.* "lord Cadogan, the legal estate were "trusts conveyed by one deed, and then "declared by a different instrument "which is in substance no difference "at all; this reasoning seems to make "a distinction between a woman's "agreement previous to marriage respecting a legal and equitable estate, "and that distinction was urged by "counsel in the case of Rippin *v.* "Harding, twenty-second of November 1769, before lord Camden; "but it was over-ruled on this principle, that whatever is agreed for a "valuable consideration to be done, "is in equity considered as done; "therefore I think the agreement in this

" this caſe was ſufficient to enable " Mrs. Hibbins to have diſpoſed of " her eſtate by will *after marriage*, " and then I think it a doubtful diſ- " tinction between a will made before " and after coverture for two reaſons, " firſt, I doubt whether if the agree- " ment had been carried into exe- " cution, (and the caſe is in equity " to be conſidered in the ſame light " as if it had been ſo) the court would " not have declared the truſt ſubject " to the life eſtates to ſuch uſes, &c. " as Mrs. Hibbins ſhould by deed or " will, &c. notwithſtanding, or " whether ſole or covert appurtenant, " in which caſe I think her will would " have been good; 2dly, whether as " all was done in one day they may " not be conſidered as done at one " time, according to the authorities " cited by counſel, 1. Burr. 96. " though it is true it could not be pre- " ſumed that the marriage was before " the will, and a like preſumption " was the ground that prevailed in " that caſe, as appears in page 106, " becauſe the contrary of this caſe " appears on the face of the will; but " the preſent caſe proceeds on a ſup- " poſition that the marriage was a " revocation of the will, for it is ſtat- " ed that *that* was the opinion of all " the judges, but I have my doubts " for the reaſons already mentioned " and others; however, I ſhall anſwer " the ſeveral queries on a ſuppoſition " that the will is to be laid out of the " caſe *in equity* as well as *at law*, " for otherwiſe it would be to no " purpoſe to try the legal title; but " as lord Kenyon, 2. Ter. Rep. 695, " 696. determined the caſe without " any opinion as to the truſts as he " expreſſed it, ' without deciding or " preſuming to think what a court of " equity would do in this caſe,' I " thought it neceſſary, previous to " anſwering the *queries* reſpecting " the proceedings at law to take no- " tice of my doubts, whether Mr. " Hoddeſden may not poſſibly fail in " equity, though he ſhould ſucceed at " law.

" And as to the firſt Query, as " Dr. H. died in October 1777, I " incline to think an ejectment the " moſt proper way of proceeding, " being ſo vaſtly preferable if it can " be maintained (as I incline to think " it may) to any real action; but " then a ſtrict ſearch muſt be made to " ſee whether any fine has been le- " vied, for though non-claim be not " incurred, yet to avoid a fine, an " entry muſt be made previous to the " ejectment, though it need not to " the bringing of a real action. No " doubt ſuch ſearch has been made as " there was opportunity enough ſince " the death of Dr. H. for a fine and " non-claim to bar all real as well as " other actions; but this ſearch " ſhould be continued down to the " preſent time if an ejectment be " brought. And I think there is " great ground for argument in ſup- " port of the ſuppoſed opinion of lord " Mansfield in the caſe that the ſta- " tute of limitations will not incur " unleſs there be an *adverſe* poſ- " ſeſſion, which the poſſeſſion of Dr. " H. cannot be ſaid to be, becauſe " he had an equitable eſtate for life, " and at law. *Ceſtue que truſt* in " poſſeſſion has been offered, conſi- " dered as tenant at will to the truſ- " tee, or at leaſt there is ſuch a pri- " vity between them that the poſſeſ- " ſion of one is the poſſeſſion of the " other, unleſs where the poſſeſſion " hath continued ſo long (which is " not this caſe) in one of them as to " raiſe a preſumption that the other " has conveyed to him; and though " formerly *ceſtue que uſe* had no re- " medy at common law for recovering " the poſſeſſion, nor has now, except " where the truſt it clear, yet the " common law has always took no- " tice of truſts, and therefore *ceſtue* " *que uſe* ought to ſerve upon juries, " as obſerved by Litt. ſ. 464; ſo if " an aſſumpſit was made in conſide- " ration of a releaſe of an equitable " claim or truſt, the law will take " notice off it, and the aſſumpſit will " not be *nudum pactum*, but ſuffi- " cient to ſupport an action on the " aſſumpſit. This diſtinction, I think, " takes of all the force off Judge B.'s " argument in 2. Term Rep. 699. " from Litt. 464, and this diſtinction " is very fully explained, and as " ſtanding on clear principles in lord " Bacon's Law Tracts, 304. 305. and " is the ground on which he then " mentions the opinion of Litt. to " be founded and right, and for " the ſame reaſon I think that a court " of law ought to take notice of an " equitable eſtate in Dr. H. during " his life, and that there was a pri- " vity between him and his late wife's " heir

" heir at law, and not ſuch an adverſe " poſſeſſion on which the ſtatute of " limitations could incur; and it is " obvious what abſurdity would fol- " low from the contrary notion; for " which reaſon I think an ejectment " ſhould be firſt tried, eſpecially ſince " if that ſhould fail reſort may be af- " terwards had to a real action, and " in that caſe I think a writ of cozen- " age is to be preferred to a writ of " right for the reaſon mentioned in " the caſe."

ANSWER to 2nd Query.—" I " think no ſuggeſtion can be entered " that will preclude the demandant " from recovering ſuch damages as by " law he ſhall appear to be entitled to, " though they ſhall exceed ſix years. " Where an action is brought for " meſne profits, the ſtatute of limi- " tations is a bar to all but the laſt ſix " years, for the action muſt be either " an action on the caſe or treſpaſs " after a recovery in ejectment, both " which are within the ſtatute, and " Buller, Juſtice, ſaid the ſix years " muſt be computed from the time " of bringing the action, without re- " gard to the ejectment, Worral *v.* " Stewart, Mich. Term, 23. Geo. " III. B. R. but this has no relation " to a writ of cozenage. The gene- " ral rule is, that damages are to be " recovered from the death of the im- " mediate anceſtor of the demandant, " 2. Inſt. 288. but I think, for the " reaſons under the 1ſt Query, only " in this caſe from the death of Dr. " Hibbins."

To 3d Query.—" I think Mr. " Hoddeſden's taking a moiety only " by immediate deſcent from Mrs. " Hibbins, and the other moiety reſt- " ing in Mrs. Brazier and deſcend- " ing, will make a difference, for " Mrs. Brazier's moiety ſeems to me " not included in the marriage agree- " ment, for that could not be con- " ſidered as any part of Mrs. Culver " (after Hibbins's) fortune at the time " of the agreement *, and therefore " for this moiety the ejectment will be " perhaps ſaid to be barred, but " there will be no hurt in bringing " the ejectment for the entirety, be- " cauſe when an ejectment is ſo " brought, if a title appears in the " leſſor only to a moiety or other " part, he ſhall recover for that " part, but I take it not to be ſo as " to real actions, and if the claimant " proceeds that way, I think he muſt " have two ſeparate actions, each for " a moiety; but as to the poſ- " ſeſſion of one joint tenant or tenant " in common is the poſſeſſion of the " other, ſo as to prevent the ſtatute " of limitations againſt ſo long as the " other is in poſſeſſion, except where " there has been actual ouſter, or " circumſtances to preſume an ouſter " (neither of which I incline to think " is this caſe), Salk. 285. Pl. 19. " 5. Burr. 2607. therefore that muſt " be inſiſted on if an ejectment be " brought as ſufficient to the bar of " the ſtatute. With reſpect to Mrs. " Brazier's moiety, the marriage " agreement might have been ſo " worded as to have extended to fu- " ture fortune, but it ſeems not to " be ſo."

To 4th Query.—" The form of " the writ of cozenage is ſo clearly ſet " forth in the Regiſt. 226. a. and in " F. N. B. 221. K. that inſtead of " preparing I ſhall only refer to them " for it. The writ as obſerved Co. " Litt. 27. a. 18 (as the name *breve* " imports) brief; but the Count is " more narrative, ſpacious, and cer- " tain, and the above books ſhew " clearly that it is not neceſſary in the " *writ* of cozenage to ſhew coment " heir, ſo that it may ſeem unneceſ- " ſary to add that in Bro. *Sci. Fa.* " Pl. 67. it was adjudged that the " demandant ſhewed cozenage out of " the writ, and not in it, and except- " tion was taken to this writ, *ſed non* " *allocatur*. There are many autho- " rities that in a real action where " the demandant makes title as heir " he muſt ſhew coment heir; but I " think they are to be underſtood only " of the Count, and moſt of them are " ſo expreſſed. Several of them are " mentioned in 2. Bl. Rep. 1100.; " but there are a very great number

* This part of the Serjeant's Opinion ſeems to have been written under a miſapprehenſion of the fact. The entire reverſion having been in Mrs. Hibbins at the time of the agreement until her death, when the diviſion of it into moieties firſt took place between Mrs. Brazier and Mr. Hoddeſden.

" beſides

" beſides thoſe that are there men-
" tioned."

To 5th Query.—" I think no real
" action for lands or houſes in Lon-
" don is maintainable any where but
" in London, for ſo in 4. Inſt. 247.
" but the firſt of the authorities
" which I have referred to in this
" caſe (viz. F. N. B. 7. D.) is ex-
" preſs to the purpoſe for which it is
" there mentioned, and therefore I
" think there will be little riſque if
" the action be brought in C. B.

To 6th Query.—" I think Dr. H.'s
" deviſee ſhould be made tenant to the
" writ of the public houſe, for if he
" pleads *non tenure* it will be optional
" in the demandant either to join iſſue
" on that plea or to ſign judgment as
" for a diſclaimer, and he will chuſe
" the laſt, and that will anſwer the
" purpoſe as well, as I remember the
" doctrine of *non tenure*, for in ſuch
" caſe I think he might have remedy
" againſt the perſon in poſſeſſion by
" ejectment, ſuppoſing he could not
" by *habere facias ſeiſinam* on the
" judgment of the writ of cozen-
" age."

To 7th Query.—" As to the ſum-
" mons, where a houſe is empty or
" otherwiſe, very full directions in
" Booth, Lib. 1. c. 2. to which (as
" I have already written ſo much) and
" to the authorities there recited I
" ſhall refer, but in general it muſt
" be on the land and the requiſites
" there, and in the 31. Eliz. c. 3.
" ſ. 7. be obſerved."

To 8th Query.—" If a tenant ſhall
" not appear, unleſs a guardian be
" previouſly appointed, all ſubſequent
" proceedings will be erroneous, for
" a recovery by default againſt an
" infant is erroneous, Bro. de-
" fault, Pl. 30. and though it is
" there ſaid to be contrary if he ap-
" pears and loſes by plea or voucher,
" yet that muſt be underſtood if
" he appears properly, that is,
" by guardian, for if he appears
" by attorney the judgment will be
" erroneous, F. N. B. 27. (H.) Sty.
" 218. Jenkins, 301. F. Cro. Jac.
" 641. not aided by any ſtatute of
" jeofails where he is defendant, nor
" amendable except under circum-
" ſtances, Stra. 455. though in ſame
" cauſes where he is plaintiff and re-
" covers it is aided by 21. Jac. 1.
" c. 13.

To 9th Query.—" I think after
" the original writ is ſued out it will
" be proper to give notice thereof to
" the infant and his neareſt relations
" to appoint ſome perſon to appear
" for him as guardian, and if none
" does to move the court that a guar-
" dian may be appointed *ad litem*,
" Sty. 369. 2. Wilſ. 50. for which
" purpoſe I think it would be proper
" to make the original writ returnable
" at a diſtant return day, ſo as to give
" opportunity for making the motion,
" and for the court conſidering the
" point, for an original writ is not
" erroneous, though returnable at a
" remote return. The old me-
" thod is to ſue out a *dedimus* to ap-
" point a guardian, Regiſt. 164. a,
" and a writ to the juſtices of the
" court where the action was com-
" menced againſt him, commanding
" them to admit the guardian ap-
" pointed purſuant to the *dedimus*,
" Moyles Ent. 55. but now I appre-
" hend the court would do it on mo-
" tion in a real as well they conſtantly
" do in perſonal actions, 2. Barnes,
" 326. 334, Str. 1076."

To 10th and 11th Queries.—" As
" the infant's title is not deſcent, I
" think the parol will not demur.
" Other matters will probably ariſe
" hereafter, but at preſent no others
" occur to me." G. HILL,

Lincoln's Inn, 12th Jan. 1789.

Two writs of cozenage, the one for premiſes in Middleſex, the other in London, were ſued out (returnable in C. B.) againſt Lloyd, who appeared, and caſt an eſſoin, but further proceedings at law were rendered unneceſſary by the lord chancellor giving his judgment in equity in favour of Mr. Hoddeſden. Upon the chancellor's opinion being given, Mr. Hoddeſden's opponents relinquiſhed their poſſeſſion to him, and ſubmitted to account for the profits from Dr. Hibbins's death.

For the public houſe an ejectment was afterwards brought againſt the occupier by Mr. Hoddeſden on the ſeveral demiſes of himſelf and Dr. Hibbins's deviſees, and the poſſeſſion was recovered under that ejectment.

INDEX.

WRIT OF ASSIZE.

PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.

Record in writ of *aiel*. Plaintiff counts on the *seisin* of his grandfather of lands at Harrow. Tenant appears, and pleads *seisin* in fee in one Bryan Edley, who levied a fine to plaintiff's grandfather to the use of him and his wife for their respective lives, remainder to the heirs male of their bodies. Remainder to the right heirs of the grandfather. States that tenants for life entered and enjoyed during their lives; that on their deaths premises descended to Christopher, their son, who entered, and died seised, upon whose death the premises descended to Thomas his son, who entered, and died seised, and the premises descended to his brother Christopher by virtue of the entail, who entered, and died seised without issue male, whereupon the premises descended to one James, cousin and heir male of the grandfather, who entered by virtue of the entail, and demised to the defendants at will, and they further say, that they are not, nor were at the time of the issuing of the writ tenants of the freehold, and conclude with a verification. The demandant *protestando*, that the grandfather did not die seised in fee tail. Replies, that the defendants were tenants of the freehold, and concludes to the country. General demurrer in bar thereto. Joinder. Continuances, and judgment for the plaintiff upon the replication, and *that defendant respondeat ouster*. Plea in chief by defendants as before, deriving the estate in fee tail to the said James, and alledge that James levied a fine to them for their lives, remainder to the husband in fee, and traverse the seisin in fee of the grandfather. Plaintiff takes issue on the traverse. Entry of the *jurata*. *Postea*, and verdict for the defendants, and final judgment, that plaintiff *nil capiat per breve*. *Placita* of Hilary term. *Jurata* respited till Trinity. *Nisi prius* for the sittings at Westminster, - - - - Lill. Ent. 92. to 96

Form of the oath administered to recognitors of assize, - Loft's Rep. 496

The *record* in assize in a writ of right, - - - *Ibid.*

Scire facias in an assize of novel disseisin for an administratrix for damages adjudged in C. B. and judgment of reversal in B. R. reversed in parliament. Return. Demurrer to *scire facias*, and joinder, (*and complete record in this action.*) (See *Scire Facias*), - - - - Lill. Ent. 653

Writ of seisin on a writ of *assize of novel disseisin*. - - *Ibid.* 598

Scire facias to revive a judgment *in an assize of novel disseisin*. *Ibid.* 648

REAL

REAL ACTIONS,

POSSESSORY.

WRIT OF RIGHT.

(PROPERLY SO CALLED.)

Trinity Term, 27. Geo. III.

Writ of Right.

SURRY, to wit. James Dalley, by A. B. his attorney, demands againſt William King one meſſuage, twó barns, &c. &c. with the appurtenances, in the pariſh of, &c. in the county of Surry, as his right of inheritance by writ of the lord the king of right; and thereupon he ſaith, that M. B. late of, &c. long before and at the time of the making of the deviſe hereafter mentioned, was ſeiſed in his demeſne as of fee and right of and in the premiſes hereinafter mentioned, in the time of peace, in the time of the lord king George the Second, late king of Great Britain, to wit, within ſixty years now laſt paſt, by taking the eſplees thereof to the value, &c.; and being ſo ſeiſed thereof the ſaid M. B. on, &c. in the ſecond year of the reign of the ſaid lord king George the Second, made and publiſhed his laſt will and teſtament in writing, duly executed and atteſted, for diſpoſing of his real eſtate, and thereby gave and deviſed the tenements aforeſaid, with the appurtenances above demanded, unto his wife J. B. for and during her natural life, and after the death of the ſaid J. B. the teſtator gave and bequeathed by his ſaid will the tenements aforeſaid, with the appurtenances, to his ſon J. B. for and during his natural life, and from and after the deceaſe of him the ſaid ſon J. B. the ſaid teſtator by his ſaid will, gave and bequeathed the tenements aforeſaid, with the appurtenances, to his two grandſons M. B. and J. B. to them and their heirs for ever, equally to be divided between them and their heirs, ſhare and ſhare alike: And the ſaid J. D. the demandant further ſaith, that the ſaid M. B. the ſaid teſtator having made ſuch his will as aforeſaid, to wit, on, &c. in the ſaid ſecond year of the reign of the ſaid late king George the Second, died ſeiſed of the tenements aforeſaid, with the appurtenances, to wit, &c. without altering or revoking his ſaid will; upon whoſe

the ſaid J. B. became ſeiſed under and by virtue of the ſaid will of the tenements aforeſaid, with the appurtenances, in her demeſne as of freehold and right for the term of her natural life by taking the eſplees thereof to the value, &c.: And the ſaid J. D the demandant further ſaith, that the aforeſaid J. B. afterwards, to wit, on, &c. in the ſaid ſecond year of, &c. died ſo ſeiſed of the ſaid tenements, with the appurtenances, to wit, at, &c.; and thereupon the ſaid J. B. the ſon, under and by virtue of the ſaid will, became ſeiſed of and in the tenements aforeſaid, with the appurtenances, in his demeſne as of freehold and right, for the term of his natural life, by taking the eſplees thereof to the value, &c.: And the ſaid J. D. the demandant further ſaith, that the ſaid teſtator's ſaid two grandſons M. B. and J. B. from and immediately after the death of the ſaid teſtator, under and by virtue of the ſaid will, became ſeiſed in common and of right of and in the remainder of the tenements aforeſaid, with the appurtenances, expectant on the death of the ſaid J. B. and the ſaid J. B. the ſon; and being ſo thereof ſeiſed of ſuch hiſe ſtate aforeſaid, of and in the tenements aforeſaid, with the appurtenances, the ſaid M. B. the grandſon afterwards, and after the death of the ſaid teſtator, to wit, on, &c. in the twenty-firſt year of the reign of the ſaid late lord king George the Second, died ſeiſed thereof, without heirs from his body iſſuing, after whoſe death his ſhare, to wit, one undivided moiety of the ſaid remainder of and in the tenements aforeſaid, with the appurtenances, deſcended to the ſaid J. B. the grandſon, as only brother and heir of the ſaid M. B. the grandſon; and by reaſon of the premiſes the ſaid J. B. the grandſon was ſeiſed as of fee and right of the whole of the ſaid remainder of and in the tenements aforeſaid, with the appurtenances: And the ſaid J. D. the demandant further ſaith, that afterwards, and after the death of the ſaid teſtator, and after the death of the ſaid M. B. the grandſon, and during the life of the ſaid J. B. the ſaid ſon of the ſaid teſtator, to wit, on, &c in the twenty-eighth year of, &c. the ſaid J. B. the grandſon being ſo ſeiſed as laſt aforeſaid of and in the ſaid remainder in the tenements aforeſaid, with the appurtenances, died ſeiſed thereof, to wit, at, &c. without heir from his body iſſuing; and after the death of the ſaid J. B. the grandſon the ſaid remainder of and in the tenements aforeſaid, with the appurtenances, deſcended upon the ſaid J. D. the demandant as couſin and heir of the ſaid J. B. the grandſon, he the ſaid J. D. being the ſon and heir of Ann formerly the wife of J. D. deceaſed, and the ſaid A. being the daughter and heireſs of Jane, who was the wife of J. B. and the ſaid Jane being the daughter of the ſaid M. B. the teſtator, which ſaid M. B. died leaving iſſue only one ſon named J. B. which ſaid J. B. the ſon died leaving the ſaid M. B. and J. B. and no other iſſue, which ſaid laſt mentioned M. B. and the ſaid laſt-mentioned J. B. are both of them dead without iſſue: And by reaſon of the premiſes the ſaid J. D. the demandant further ſaith, that afterwards, and after the death of the ſaid J. B. the grandſon, the ſaid J. B. the ſon being ſo ſeiſed in his demeſne as of freehold under the ſaid will as aforeſaid of and

in

in the tenements aforeſaid, with the appurtenances, to wit, on, &c. in the thirtieth year of, &c. died, to wit, at, &c.; and thereupon the eſtate of the ſaid J. B. the ſon, as well as the eſtate of the ſaid J. B. being determined as aboveſaid, the tenements aforeſaid, with the appurtenances, remained to him the ſaid J. D. who now demands the ſame as his right and inheritance, and as couſin and heir at law as aforeſaid of the ſaid J. B. the grandſon, and that ſuch is his right he offers ſuit, &c.

Plea to the above writ of right.

And the ſaid William King, by A B. his attorney, comes and defends the right of the ſaid J. D. and his ſeiſin, when, &c. and all, &c. and whatever, &c. and chiefly of the tenements aforeſaid, with the appurtenances, as of fee and right, &c. and ſaith that true it is that M. B. was ſeiſed in his demeſne as of fee and right of and in the premiſes in the Count mentioned; and that the ſaid M. B. being ſo ſeiſed thereof, on, &c. in the ſecond year of the reign of the ſaid lord king George the Second, did make and publiſh his laſt will and teſtament in writing, duly executed and atteſted for diſpoſing of his real eſtate, and thereby gave and deviſed the tenements aforeſaid, with the appurtenances, unto his wife J. B. for and during her natural life, and that after the death of the ſaid J. B. the ſaid teſtator by his will gave and bequeathed the tenements aforeſaid, with the appurtenances, to his ſon J. B. for and during his natural life; and from and after the deceaſe of his ſaid ſon J. B. the ſaid teſtator by his ſaid will gave and bequeathed the tenements aforeſaid, with the appurtenances, to his two grandſons M. B. and J. B. to them and to their heirs for ever, equally to be divided between their heirs, ſhare and ſhare alike, and that the ſaid M. B. the ſaid teſtator, having made ſuch his will as aforeſaid, died ſeiſed of the tenements aforeſaid, with the appurtenances, without altering or revoking his ſaid will, and that upon his death the ſaid J. B. became ſeiſed under and by virtue of the ſaid will of the tenements aforeſaid, with the appurtenances, in her demeſne as of freehold and right for the term of her natural life, by taking the eſplees thereof, and that the ſaid J. B. afterwards died ſo ſeiſed of the tenements aforeſaid, with the appurtenances, and that thereupon the ſaid J. B. the ſon under and by virtue of the ſaid will became ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of freehold and right for the term of his natural life by taking the eſplees thereof; and that the ſaid teſtator's ſaid two grandſons M. B. and J. B. from and immediately after the death of the ſaid teſtator under and by virtue of the ſaid will became ſeiſed in common as of fee and right of and in the remainder of the tenements aforeſaid, with the appurtenances, expectant on the death of the ſaid J. B. and the ſaid J. B. the ſon, and that being ſo thereof ſeiſed of ſuch eſtate as aforeſaid of and in the tenements aforeſaid, with the appurtenances, the ſaid M. B. the grandſon afterwards, and after the death of the ſaid teſtator, died ſeiſed thereof without heirs from his body iſſuing, and that after his death his ſaid ſhare of the ſaid remainder of

and in the ſaid tenements, with the appurtenances, deſcended to the ſaid J. B. the grandſon as only brother and heir of the ſaid M. B. the grandſon; and that by reaſon of the premiſes the ſaid J. B. the grandſon was ſeiſed as of fee and right of the whole of the ſaid remainder of and in the tenements aforeſaid, with the appurtenances, and that afterwards, and after the death of the ſaid teſtator, and after the death of the ſaid M. B. the grandſon, and during the life of the ſaid J. B. the ſon of the ſaid teſtator, the ſaid J. B. the grandſon, being ſo ſeiſed as laſt aforeſaid of and in the ſaid remainder in the tenements aforeſaid, with the appurtenances, died ſeiſed thereof without heir from his body iſſuing in manner and form as the ſaid J. D. the demandant hath in his Count aforeſaid alledged: And the ſaid W. K. further ſaith, that true it is that the ſaid M. B. the teſtator died leaving iſſue only one ſon named J. B. and that the ſaid J. B. the ſon died leaving the ſaid M. B. and J. B. and no other iſſue, and that the ſaid laſt-mentioned M. B. and the ſaid laſt-mentioned J. B. are both of them dead without iſſue, in manner and form as the ſaid J. D. the demandant hath in his Count aforeſaid alledged; and the ſaid W. K. further ſaith, that true it is that after the death of the ſaid J. B. the grandſon, the ſaid J. B. the ſon being ſo ſeiſed in his demeſne as of freehold under the ſaid will as aforeſaid of and in the tenements aforeſaid, with the appurtenances, died, as the ſaid J. D. the demandant hath in his Count alledged; but proteſting that after the death of the ſaid J. B. the grandſon the ſaid remainder of and in the tenements aforeſaid, with the appurtenances, did not deſcend upon the ſaid J. D. the demandant as couſin and heir of the ſaid J. B. the grandſon, in manner and form as is by the ſaid J. D. in his Count aforeſaid alledged; proteſting alſo that upon the death of J. B. the ſon the tenements aforeſaid, with the appurtenances, did not remain to him the ſaid J. D. the demandant as his right or inheritance as couſin or heir at law of the ſaid J. B. the grandſon, as the ſaid J. D. the demandant hath in his Count aforeſaid in that behalf alledged: for plea in this behalf the ſaid W. K. tenant of the tenements aforeſaid, with the appurtenances, ſaith that the ſaid J. B. the grandſon, being ſo ſeiſed as laſt aforeſaid of and in the ſaid remainder of and in the ſaid tenements, with the appurtenances, after the death of the ſaid M. B the grandſon, to wit, on, &c. in the twenty-eighth year of, &c. made and publiſhed his laſt will and teſtament in writing duly executed and atteſted for diſpoſing of his real eſtate, and thereby gave and deviſed his ſaid remainder in the tenements aforeſaid, with the appurtenances, unto his mother R. B. and to her heirs and aſſigns for ever: And the ſaid W. K. the tenant aforeſaid, further ſaith, that the ſaid J. B. the grandſon, having made ſuch his will as aforeſaid, afterwards, to wit, on, &c. in the twenty-ninth year of, &c. died ſeiſed of his ſaid remainder of and in the tenements aforeſaid, with the appurtenances, and the ſaid R. B. and J. B. the ſon then and there ſurvived him: And the ſaid W. K. the tenant further ſaith, that the ſaid R. B. from and immediately

after the death of the ſaid J. B. the grandſon, under and by virtue of the ſaid will, became ſeiſed as of fee and right of and in the remainder of the tenements aforeſaid, with the appurtenances, expectant on the death of the ſaid J. B. the ſon; and being ſo ſeiſed of ſuch her eſtates as aforeſaid of and in the tenements aforeſaid, with the appurtenances, the ſaid J. B. the ſon being ſo ſeiſed in his demeſne as of freehold of and in the tenements aforeſaid, with the appurtenances, to wit, on, &c. in the thirtieth year of, &c. died, to wit, at, &c. and the ſaid R. B. then and there ſurvived him, and upon his death the ſaid R. B. became ſeiſed under and by virtue of the ſaid will of the ſaid J. B. the grandſon of the tenements aforeſaid, with the appurtenances, in her demeſne as of fee and right by taking the eſplees thereof to the value, &c.: And the ſaid W. K. the tenant further ſaith, that the ſaid R. B. being ſo ſeiſed of and in the tenements aforeſaid, with the appurtenances as aforeſaid, afterwards, to wit, on, &c. A. D. 1769, at, &c. died ſo ſeiſed thereof without heir from her body iſſuing; and after the death of the ſaid R. B. the tenements aforeſaid, with the appurtenances, deſcended upon J. F. as brother and heir at law of the ſaid R. B. and he the ſaid J. F. then and there became ſeiſed in his demeſne as of fee and right of and in the ſaid tenements, with the appurtenances, by taking the eſplees thereof to the value, &c.: And the ſaid W. K. the tenant further ſaith, that the ſaid J. F. being ſo ſeiſed thereof he the ſaid J. F. afterwards, and whilſt he was ſo ſeiſed, to wit, on &c. A.D. 1770, at, &c. made and publiſhed his laſt will and teſtament in writing duly executed and atteſted for diſpoſing of his real eſtate, and thereby gave and deviſed the tenements aforeſaid, with the appurtenances, unto his wife E. F. for and during her natural life; and from and after the death of the ſaid E. F. the ſaid J. F. by his ſaid will gave and bequeathed the tenements aforeſaid, with the appurtenances, to J. K. to him and his heirs and aſſigns for ever: And the ſaid W. K. the tenant further ſaith, that the ſaid J. F. having made ſuch his will as aforeſaid, afterwards, to wit, on, &c. A. D. 1771, at, &c. died ſeiſed of the tenements aforeſaid, with the appurtenances, without altering or revoking his ſaid will, and the ſaid E. F. and J. K. then and there ſurvived him; and upon the death of the ſaid J. F. ſhe the ſaid E. F. became ſeiſed under and by virtue of the ſaid will of the tenements aforeſaid, with the appurtenances, in her demeſne as of freehold and right for the term of her natural life, by taking the eſplees thereof to the value, &c.: And the ſaid W. K. the tenant further ſaith, that the aforeſaid E. F. afterwards, to wit, on, &c. A. D. 1773, at, &c. died ſo ſeiſed of the tenements aforeſaid, with the appurtenances, and the ſaid J. K. ſurvived her; and thereupon the ſaid J. K. under and by virtue of the laſt-mentioned will, became ſeiſed of and in the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right by taking the eſplees thereof to the value, &c.: And the ſaid W. K. the tenant further ſaith, that the ſaid J. K. being ſo ſeiſed thereof, he the ſaid J. K. afterwards, and whilſt he was

ſo

ſo ſeiſed, to wit, on, &c. A. D. 1777, at, &c. made and publiſhed his laſt will and teſtament in writing, duly executed and atteſted for diſpoſing of his real eſtate, and thereby gave and deviſed the tenements aforeſaid, with the appurtenances, unto his ſon J. K. and his heirs: And the ſaid W. K. the tenant further ſaith, that the ſaid J. K. the teſtator having made ſuch his laſt will as aforeſaid, afterwards, to wit, on, &c. A. D. 1780, at, &c. died ſeiſed of the tenements aforeſaid, with the appurtenances, without revoking or altering his ſaid will, and the ſaid J. K. the ſon then and there ſurvived him, and upon his death became ſeiſed, to wit, under and by virtue of the ſaid will of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right by taking the eſplees thereof to the value, &c.: And the ſaid W. K. the tenant further ſaith, that the ſaid J. K. the ſon being ſo ſeiſed thereof, he the ſaid J. K. the ſon afterwards, and whilſt he was ſo ſeiſed, to wit, on, &c. A. D. 1784, at, &c. made, &c. his laſt, &c. duly executed, &c. for diſpoſing of his real eſtate, and thereby gave and deviſed the tenements aforeſaid, with the appurtenances, unto the ſaid W. K. the tenant to him and his heirs: And the ſaid W. K. the tenant further ſaith, that the ſaid J. K. the ſon having made ſuch his will as aforeſaid, afterwards, to wit, on, &c. A. D. 1786, at, &c. died ſo ſeiſed of the tenements aforeſaid, with the appurtenances, without revoking or altering his ſaid will; and the ſaid W. K. the tenant upon his death became ſeiſed under and by virtue of the ſaid will of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right by taking the eſplees thereof to the value, &c. and ſtill is ſeiſed thereof in form aforeſaid, to wit, at, &c.; and this, &c.; wherefore, &c. if, &c. G. HILL.

Replication to the laſt plea.

And the ſaid J. B. the demandant ſaith, that the ſaid W. K. unjuſtly defends the right of the ſaid J. D. and his ſeiſin, when, &c. and all, &c. and whatever, &c. and chiefly of the tenements aforeſaid, with the appurtenances, as of fee and right, &c. becauſe he the ſaid J. D. the demandant as before ſaith, that upon the death of the ſaid J. B. the ſon the tenements aforeſaid, with the appurtenances, did remain to him the ſaid J. D. the demandant as his right and inheritance as couſin and heir at law of the ſaid J. B. the grandſon, as the ſaid J. D. the demandant hath in his Count aforeſaid in that behalf above alledged, without this, that the ſaid J. B. the grandſon (being ſeiſed as in the plea of the ſaid W. K. the tenant is above alledged of and in the ſaid remainder of and in the tenements aforeſaid, with the appurtenances, after the death of the ſaid M. B. the grandſon) gave and deviſed his ſaid remainder in the tenements aforeſaid, with the appurtenances, unto his mother R. B. and to her heirs and aſſigns for ever in manner and form as the ſaid W. K. hath in his ſaid plea above alledged; and this the ſaid J. D. the demandant prays may be enquired of by the country; and the ſaid W. K. the tenant doth the like: Therefore the ſheriff is commanded that he cauſe to come here in three weeks of the

Holy Trinity, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. G. BOND.

DIRECTIONS ON PROSECUTION OF A WRIT OF RIGHT.

This writ is what is called a General Writ of Right, and ſhould be delivered to the ſteward of the manor court in court upon which (after pledges to proſecute given) the ſteward ſhould make an entry of the demand by the writ, and then deliver back the writ to the demandant.

The bailiff or ſteward is then to iſſue proceſs to ſummons the tenant.

If he does not, the demandant may remove the plea into the county court by a precept called a *tolt*.

An entry of that muſt be made alſo by the ſteward. That tolt is to be returned.

Upon the return of the plea into the county court the demandant may remove it from thence into the common pleas by a writ called a *pone*.

This being very troubleſome the moſt eligible method is to ſue out a writ of right returnable in the court of king's bench, which muſt be by the writ called *quia dominus remiſit curiam*.

And after the *teſte* thoſe words *quia, &c.* muſt be inſerted the writ ſhould be carefully ſettled.

This writ is cloſe, and directed to the ſheriff who is to ſummons the tenant or defendant, and return the writ accordingly, after which the proceedings are as in other real actions.

The tenant or defendant ſhould be really ſummoned, and not the common return of fictitious ſummoners, for was judgment to go by default it might be ſet aſide. Vide Searle and Long, 1. Mod. 248.

JOHN MORGAN.

The writ of right *quia dominus remiſit curiam.*

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the ſheriff of A. greeting: Command W. R. W. S. and A. his wife, and E. R. that juſtly and without delay they render to W. W. four cottages, four gardens, with the appurtenances, in , within the manor of , in your county, which he claims to be his right and inheritance, and whereof he complaineth that the ſaid W. R. &c. do unjuſtly deforce him; and unleſs they ſhall ſo do, and the ſaid W. W. ſhall give you ſecurity, that his ſuit ſhall be proſecuted, then ſummon by good ſummoners the ſaid W. R. &c. that they be before our juſtices at Weſtminſter to ſhew wherefore they will not do it; and have you there then the ſummoners and this writ. Witneſs ourſelf at Weſtminſter, the day of in the year of our reign; becauſe Richard, biſhop of London, chief lord of that ſee, hath thereupon remitted unto us his court.

Pledges to proſecute, { John Doe and Richard Roe.

Return of the above writ.

The within named W. R. &c. are ſummoned by T. V. and W. B. and at the moſt uſual door of the pariſh church of , within mentioned, on Sunday the day of , in the year within mentioned, after divine ſervice and ſermon ended, I did cauſe proclamation to be made according to the form of the ſtatute in ſuch caſe made and provided.

The anſwer of F. H. ſheriff.

On

The adjournment of the tenants eſſoign.

On the morrow of the Aſcenſion of the Lord in Eaſter term, in the year of the reign of king George the Third, the tenants eſſoign at the inſtance of the demandant is adjourned until in fifteen days of the Holy Trinity.

R. W. clerk of the eſſoigns.

Declaration on the above writ.

————, to wit. W. W. by A. B. his attorney, demands againſt W. R. &c. four cottages [as in the writ], with the appurtenances, in , in the manor of , in the county of aforeſaid, as his right and inheritance by writ of right of our lord the king; becauſe Richard, biſhop of London, the chief lord of that fee, hath thereupon remitted unto our lord the king his court, and thereupon he the ſaid W. W. ſaith, that was ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee and right, in the time of peace, in the time of our lord late king of Great Britain, &c. within ſixty years now laſt paſt, by taking the eſplees thereof to the value of , from which ſaid the right, &c. deſcended to *W. H. as ſon and heir of the ſaid* , *and from the ſaid W. H. becauſe he died without heir of his body iſſuing, the right, &c. deſcended to S. W. now deceaſed as couſin and heir of the ſaid W. H. that is to ſay, ſiſter of the ſaid* , *the father of the ſaid W. H. and from which ſaid S. W. the right &c. deſcended to the ſaid W. W.* who demands the tenements aforeſaid, with the appurtenances, as ſon and heir of the ſaid *S. W.* deceaſed; and that ſuch is the right of him the ſaid W. W. he offers to prove, &c.

Vide made agreeable to the demandant's caſe.

Plea. 3. Black. Com. 297.

And the ſaid W. R. &c. by C. D. his attorney, come and *defend the right of the ſaid W. W. and his ſeiſin* of and in the tenements aforeſaid, and ſay that the ſaid S. H. the grandfather was not ſeiſed of the tenements aforeſaid, with the appurtenances, in his demeſne as of fee, in manner and form as the ſaid W. W. hath above alledged; and of this they put themſelves upon the country, &c.: And for further plea in this behalf the ſaid W. R. &c. by leave of, &c. ſay, that the tenements aforeſaid, with the appurtenances, &c. &c.

Extracts from the ſtatutes and law books concerning an aſſize of novel diſſeiſin at common law, grounded on the king's writ of right cloſe.

ASSIZES are uſed for a jury. Where aſſizes of novel diſſeiſin, &c. are tried the pannel of aſſizes ſhall be arraigned and a copy delivered by a proper officer to the plaintiff of the defendant's demanding the ſame ſix days before the ſeſſions, on pain of forty pounds, 6. Hen. 6. c. 2.

Aſſize is taken for a writ of recovery of things whereof any one, or his anceſtors, have been diſſeiſed, or ſignifies an ordinance of Stat. Reg. Orig. 279.

In

In an aſſize, if defendant fails to make good his exceptions which he pleads he ſhall be adjudged a diſſeiſor without taking the aſſize, and ſhall pay plaintiff double damages, and be impriſoned a year, 13. Ed. 1. c. 25.

In an aſſize the tenant muſt plead in bar, and plaintiff make title; but if the tenant neither anſwers nor traverſes the title, the aſſize ſhall be awarded at large, Cro. Eliz. 559. Cadogan *v.* Powell; and if any other title is found for plaintiff he ſhall recover, Bro. Aſſize, 281.

If tenant pleads in abatement he muſt alſo plead over in bar, and have an imparlance without good cauſe, and where there are ſeveral defendants, and any of them do not appear the firſt day, the aſſize ſhall be taken againſt them all by default, Paſch. 5. W. 3.

An aſſize is firſt to be arrayed, and plaintiff's counſel or agent pray defendant may be called if they appear, then counſel or agent may demand oyer of the writ, which being granted they may pray leave to *imparl* to a *ſhort* day, to which the jury may be adjourned; on which day the defendant being again called, and appearing, and pleading to the aſſize, the parties thereon join iſſue, then plaintiffs counſel or agent give their evidence; after trial the court gives judgment, and if plaintiff recovers he is to have his writ of ſeiſin, 1. Lill. Abr. 105. 106.

The plaintiff muſt firſt prove his title, then his ſeiſin and diſſeiſin.

And the defendants ſhall not eſſoign, or caſt a protection, or pray aid of any but the king, or vouch any ſtranger or party to the writ unleſs they enter into warranty, 8. Rep. 50.

In aſſize the jurors are called recognitors of the aſſize, and are to view the premiſes in queſtion. By writ of aſſize the proper officer is commanded to ſummon twelve free and lawful men of the neighbourhood by good ſummoners to view the premiſes in queſtion, and after to appear at the ſeſſions and give recognition or verdict.

The judgment being to recover *per viſum recognitorum*, it is ſufficient if the plaint be but ſo certain as the recognitors may put the demandant or plaintiff into poſſeſſion, Dyer, 84.

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(a) For INDEX to REAL ACTIONS *ſee* GENERAL INDEX at the end of this Volume—ACTIONS REAL—where theſe proceedings are arranged. Poſtponed now that the progreſs of this Volume might not be impeded, owing to manuſcript matter communicated ſubſequent to the copy delivered, as in ſome of the preceding Volumes.

PRACTICAL

PRACTICAL PROCEEDINGS

IN THE

CIVIL AND CRIMINAL DIVISION,

AND

PARTES PLACITANDI.

NOTICES OF ACTION.

TO A. B. and C. D. Officers of his Majeſty's Cuſtoms.

YOU having on or about the day of laſt unlawfully ſeized and taken poſſeſſion of a certain brig or veſſel called the Janet, together with her tackle, apparel, furniture, and ſtores, of and belonging to John Brownlow of, &c. and being of a large value, to wit, of the value of pounds of lawful, &c. and from thence hitherto unlawfully kept and detained the ſaid ſhip or veſſel, and her tackle, apparel, furniture, and ſtores aforeſaid, and converted and diſpoſed thereof to your own uſe; I do therefore as the attorney of and for the ſaid John Brownlow in this behalf (according to the form of the ſtatute in ſuch caſe made and provided) hereby give you notice, that I ſhall at or ſoon *after the expiration of one calendar month* from the time of your being ſerved with this notice, commence and proſecute an action againſt you in his majeſty's court of for your ſaid miſconduct. Dated this day of 1791.

Notice to cuſtom-houſe officers (for ſeizing and converting a ſhip, &c.) given by the attorney.

Obſerve the ſtatute.

Yours, ANTHONY HEMMING,
Attorney for the ſaid J. B.

The name and place of abode of the plaintiff's attorney muſt be indorſed on this notice.

Drawn by MR. TIDD.

MR. TURNER,

Take notice, that I do hereby forbid you at any time or times hereafter to enter or come into, or come upon any of the fields, cloſes, woods, lands, or premiſes in my poſſeſſion, ſituate in the ſeveral pariſhes of Finchley, Hornſey, and Hampſtead, in the county of Middleſex, or into or upon any part of the manor belonging

Notice to hinder a perſon from going upon lands and killing of game.

longing to the biſhop of London lying within the ſaid pariſhes, or unto or among any part thereof, either to hunt, courſe, ſearch for, or kill there game, or on any other account or pretence whatſoever, ſo long as the ſame or any part thereof ſhall remain in my poſſeſſion; and I alſo hereby give you notice, that if at any time after your receipt thereof you do enter into, or come upon any of the ſaid fields, cloſes, woods, lands, premiſes, or manor, or any part thereof, either to hunt, courſe, ſearch for, or kill game there, I ſhall conſider you as a wilful treſpaſſer, and ſhall proſecute you at law for ſo doing. Given under my hand this twenty-eighth day of January 1768.

MR. JAMES SHELLWOOD,

Notice for a tenant to quit.

Take notice, that you are to quit and leave the two rooms which you hold of us, being part of our dwelling-houſe in White Croſs Alley, Moorfields, on the ſixth day of July next; and in caſe you hold over the ſame after that day, we do hereby give you notice, that you are to pay to us after the rate of twelve pounds *per annum* for ſo long time as you ſhall continue to hold over and in poſſeſſion of the ſame, in augmentation of the rent you now pay for the ſaid rooms. Dated the third day of April 1764.

Witneſs, S. R.

JOHN CRANFIELD,
ANN CRANFIELD, his wife.

Between { A. B. plaintiff, and E. D. defendant.

SIR,

Notice of juſtifying bail, and affidavit of ſervice.

Pleaſe to take notice, that ſpecial bail is filed with the filacer of for the defendant in this cauſe, to wit, E. F. of, &c. yeoman, and G. H. of, &c. yeoman, and that the ſaid bail will juſtify in court by affidavit on Monday next. Yours, &c.

T. R. agent for the defendant.

To Mr. L. M. agent for the plaintiff—

May, 1767.

Affidavit.

N. O. of, &c. maketh oath, that he, this deponent, did this day deliver to Mr. L. M. agent for the plaintiff in this cauſe, a notice purporting that ſpecial bail was filed with the filacer of Y. for the defendant in this cauſe, to wit, E. F. of, &c. and G. H. of, &c.; and that the ſaid bail would juſtify themſelves in court by affidavit on Monday next. N. O.

Sworn, &c.

MR. W.

Notice of moving court for judgment.

Take notice, that the court of common pleas at Weſtminſter will be moved on next, or as ſoon after as counſel can be

be heard, that the like judgment may be had for the defendant in this cauſe as in the caſe of a nonſuit, purſuant to the late act of parliament. Dated the day of 1747.

G. G. agent for the defendant.

Between { A. B. plaintiff, and C. D. defendant.

Notice of ſpecial bail being filed in the common pleas.

TAKE notice, that ſpecial bail is filed for the defendant in this cauſe with the filacer of Yorkſhire, and the names of the bail are E. F. of , and G. H. of I am, &c.

G. G. agent for the defendant,

To Mr. S. T. agent for the plaintiff. 25th February 1774.

Notice of ſett off.

MR. TALBETT,

TAKE notice, that the above defendant at the time of trying the iſſue in this cauſe will give in evidence that the above plaintiff, at the time of the commencement of the above ſuit, was and ſtill is indebted to this defendant in the ſum of one thouſand pounds, for goods, wares, and merchandizes ſold and delivered by the ſaid defendant to the above plaintiff; and alſo that the ſaid plaintiff, before the commencing his ſaid action againſt the ſaid defendant, was and ſtill is indebted to the ſaid defendant in another ſum of one thouſand pounds, for money laid out, expended, and paid for the ſaid plaintiff; and alſo that the ſaid plaintiff, at the commencing his ſaid action againſt the defendant, was and ſtill is indebted to the ſaid defendant in another ſum of one thouſand pounds for money lent and advanced to the ſaid plaintiff; and that the ſaid defendant will at the ſaid trial ſett off and allow to the plaintiff ſo much of the ſaid ſeveral ſums of money ſo due and owing to the ſaid defendant againſt any demands of the ſaid plaintiff, to be proved at the ſaid trial, as will be ſufficient to ſatisfy and diſcharge ſuch demands, according to the form of the ſtatute in ſuch caſe made and provided. Dated the ſeventh day of October 1767.

THOMAS BULCOCK,
Attorney for the defendant.

In the King's Bench. Between { EDWARD PARKER, gentleman, one, &c. of K. B. plaintiff, and JOHN ASHWORTH, defendant.

Notice of executing an inquiry in ejectment.

Sir,

TAKE notice, that the writ of enquiry of damages will be executed againſt you in this cauſe on Friday the twentieth day of November inſtant, at the court-houſe in the Weſtminſter Hall, in the county of Middleſex, between the hours of ten and twelve of the clock in the forenoon of the ſame day. Dated this eleventh day of November 1765.

Yours, &c.
EDWARD PARKER.

To John Aſhworth, the above named tenant in poſſeſſion.

EDWARD SELLY,

Notice to pay double rent.

I HEREBY require you to deliver to me on the twenty-ninth day of next , the poſſeſſion of the Bair Ground, and of all other the lands and tenements which you hold of me in the pariſh of Puttlewell, in the county of Eſſex; and if you hold the ſame premiſes after that time, take notice, that you are from thenceforth to pay double yearly value of the ſame premiſes. Witneſs my hand this day of 1750.

MR. GURNEY,

The landlord's authority to diſtrain for him.

I DESIRE you will for me and, in my name, diſtrain the goods of Mr. John Conſtable, in Oxendon-ſtreet, for thirty-three pounds eight ſhillings, or ſuch other ſum as is due to me for rent of the houſe in which J. Conſtable now lives in Oxendon-ſtreet aforeſaid; and if he ſhall not within the time limited by law for that purpoſe pay the rent, I deſire you will cauſe the goods you ſhall ſo diſtrain to be appraiſed and ſold, and diſpoſe of the money ariſing thereby, according to the act of parliament in that caſe made and provided, for all which this ſhall be your authority, and I will indemnify you. Witneſs my hand this ſeventeenth day of October 1752.

SARAH LEWIS.

T. TALBOT.

In the parlour,
A chimney glaſs, &c.
In the office,
A wainſcot bookcaſe.

Tenants requeſt not to remove goods, but keep perſons in poſſeſſion.

WHEREAS there was due from me to Mrs. Sarah Lewis the ſum of thirty-three pounds eight ſhillings on the tenth day of this preſent month of October, for an arrear of rent of my dwelling houſe in Oxendon-ſtreet, in the pariſh of Saint Martin in the Fields, in the county of Middleſex, for which Mr. Gurney hath this day diſtrained my goods in my dwelling houſe; now I hereby requeſt the ſaid Mr. Gurney not to remove the ſaid goods, but to keep one perſon or perſons in my ſaid houſe for five days. If I do not before then pay the ſaid rent and the charges of the ſaid diſtreſs and keeping poſſeſſion, to ſell the ſaid goods, and out of the monies ariſing by ſuch ſale, not only to pay the ſaid rent and the charges of the ſaid diſtreſs, but alſo to pay the perſon or perſons ſo to be kept in my ſaid houſe for remaining there as aforeſaid. Witneſs my hand the fourteenth day of October 1752.

JOHN CONSTABLE.

Notice of diſtreſs and entry, 24th July 1736.

MR. WILLIAM HOME,

I HAVE this day deſtrained the above-mentioned goods and chattels in your dwelling houſe in Red Lion Court, Fleet ſtreet, in the pariſh of Saint Dunſtan's in the Weſt, London, for ſeven pounds,

pounds, being a quarter of a year's rent, due for the ſaid houſe at Midſummer laſt to Mr. John Jones; and unleſs you pay the ſaid rent, or replevy the ſaid goods in five days from the date hereof, the ſaid goods will be appraiſed and ſold according to act of parliament, whereof take notice from JOHN CHAPMAN.

The above-mentioned goods are removed into the houſe late in the poſſeſſion of Mr. Wedley, in Red Lion Court aforeſaid next adjoining to your ſaid dwelling houſe; and the key of the ſaid houſe lately in Mr. Wedley's poſſeſſion is left with Mr. Aunſham, the peruke maker, in Red Lion court aforeſaid, who will ſhew you the goods if you have a mind to replevy the ſame.

JOHN CHAPMAN.

MR. HUDSON,

TAKE notice, that the above-named defendant, at the trial of the iſſue in this cauſe, will give in evidence and prove that the ſaid Richard Pattiſon, in his life time, and at the time of his death, was indebted to the ſaid defendant in the ſum of fifty pounds of lawful money of Great Britain, for ſo much money by the ſaid Richard Pattiſon in his life time had and received for the uſe of the ſaid defendant; and alſo in the further ſum of fifty pounds of like lawful money, for ſo much money by the ſaid defendant lent and advanced to the ſaid Richard Pattiſon in his life time, and at his requeſt; and alſo in the further ſum of fifty pounds of like lawful money, for ſo much money by the ſaid defendant before that time laid out and expended for the ſaid Richard Pattiſon in his life time, and at his requeſt; and alſo in the further ſum of fifty pounds of like lawful money, upon an account ſtated and ſettled between the ſaid Richard Pattiſon in his life time and the ſaid defendant, which ſaid ſeveral ſums ſtill remain wholly due and unpaid, and that the ſaid defendant will at the ſaid trial ſett off ſo much of the ſaid ſeveral ſums of money ſo due and owing from the ſaid Richard Pattiſon in his life time to the ſaid defendant againſt any demands of the ſaid plaintiff, as executor as aforeſaid, to be proved at the ſaid trial as will be ſufficient to ſatisfy and diſcharge the ſaid plaintiff's demands, according to the form of the ſtatute in ſuch caſe lately made and provided. Dated the day of 1763.

Notice of ſett off to an action brought by an executor.

Your's, &c. EDWARD PARKER,
Defendant's agent.

Between { A. B. plaintiff, and C. D. defendant.

TAKE notice, that a declaration in an action of debt on bond is filed conditionally againſt you as of this preſent term, with the clerk of the in the king's bench office in, the Inner Temple, London, at ſuit of the plaintiff A. B. and that unleſs you

Notice of declaration being filed in the king's bench, *de bene eſſe*.

you plead thereto in eight days after the delivery hereof, judgment will be entered againſt you by default. Dated the day of 1747. G. G. attorney for the plaintiff.

To C. D. the above-named defendant.

AFFIDAVITS.

In the Common Pleas. Between { A. B. plaintiff, and C. D. defendant.

Affidavit of an eſcape and reſcue.

S. P. of, &c. maketh oath, that whereas a warrant under the ſeal of R. M. eſquire, high ſheriff of the ſaid county, made and grounded on a ſpecial *capias* in caſe iſſuing out of this court to arreſt the body of the defendant at the plaintiff's ſuit, and returnable on the morrow of the Holy Trinity now laſt paſt, was directed to this defendant and others of the ſaid ſheriff's bailiffs, he this deponent upon the day of now laſt paſt, did by virtue of the ſaid warrant arreſt the body of the ſaid defendant; and the ſaid defendant being in the cuſtody of this deponent, S. P. by virtue of the ſaid arreſt, did forcibly eſcape and run away from this deponent, peremptorily refuſing to give obedience to the ſaid warrant: And this deponent further ſaith, that he, together with one Thomas Britton, another bailiff in the ſaid bill named, did ſtrictly purſue the ſaid defendant, and on Thurſday next after the ſaid arreſt made, being the day of the ſame month of he this deponent, together with the ſaid S. P. found the ſaid defendant at the houſe of one W. W. in in the ſaid county, and endeavoured to retake him, but the ſaid W. W. and one J. P. being in company with the ſaid defendant, aſſaulted this deponent and the ſaid J. B. and would not ſuffer them to come near the ſaid defendant to retake him, but the ſaid W. W. then having a gun in his hands threatened to ſhoot this deponent and the ſaid S. B. if they offered to take or lay hold of the ſaid defendant, and thereby reſcued him the defendant, and ſo far obſtructed this deponent and the ſaid S. B. in the execution of the ſaid warrant, that by that means the ſaid defendant, againſt this deponents and the ſaid S. B's. will, did make their eſcape from them. S. P.

Sworn, &c.

In the King's Bench. Between { A. B. plaintiff, and C. D. defendant.

Affidavit of notice of trial being given.

G. G. of, &c. gentleman, and L. G. of the ſame place, gentleman, ſeverally maketh oath as follows: and firſt this deponent, G. G. maketh oath and ſaith, that iſſue was joined in this cauſe in Trinity term laſt; and that on or about the day of laſt,

laſt, he this deponent received notice of trial in this cauſe for the laſt aſſizes to be held for the county of L. but that the ſaid cauſe was not tried in purſuant of ſuch notice, as this deponent is informed, and verily believes; and this deponent, L. G. for himſelf ſaith, that he did on the day of inſtant, ſerve Mr. F. the plaintiff's agent, with the notice hereunto annexed, by putting a true copy thereof under the ſaid Mr. F's chamber door; and this deponent further ſaith, that he hath ſince ſeen the ſaid Mr. F. and he told this deponent that he had received the ſame. G. G.

Sworn, &c. L. G.

A. B. of maketh oath, that he was preſent and did ſee , eſquire, barriſter at law, and Oliver Edwards, one of the ſworn clerks of the ſix clerks' office, ſeverally ſet and ſubſcribe their names to the certificate above; and that the names of A. B. C. D. and the ſaid O. E. are of the ſeveral and reſpective hand writings of them the ſaid

Affidavit of ſigning a certificate to admit a ſolicitor in the high court of chancery.

Sworn at the Public office.

In C. P.

I DO hereby ſubmit and undertake to pay Mr. G. G. my late attorney, whatever upon taxation of his bill delivered to me in this and other cauſes that ſhall be found due to him, according to the late act of parliament in that caſe made and provided. Dated, &c. E. F.

An affidavit of an undertaking to pay coſts.

Witneſs, G. H.

G. H. of, &c. maketh oath that the above E. F. did ſign the above undertaking.

In B. R. Between { A. B. plaintiff, and C. D. defendant.

E. S. of, &c. maketh oath that he his deponent did on the day of inſtant, deliver unto the ſaid defendant C. D. a true copy of the declaration hereunto annexed, he being then a priſoner in the gaol, priſon, or caſtle, in the county of Lancaſhire; and this deponent ſaith, that the ſaid defendant was arreſted or charged in cuſtody at the ſuit of the plaintiff, by virtue of a *latitat* iſſuing out of this honourable court, return before the delivery of the ſaid declaration. E. S.

Affidavit of delivering declaration to a priſoner.

Sworn, &c.

In the King's Bench. Between { A. B. on the demiſe of C. D. plaintiff, and E. F. defendant.

R. E. of, &c. maketh oath, that he this deponent did on the day of inſtant, deliver a true copy of a declaration hereunto

Affidavit of ſerving declaration in ejectment.

hereunto annexed, unto S. D. tenant in poſſeſſion of part of the premiſes in the ſaid deſcaration mentioned; and alſo on the ſame day did deliver one other true copy of the ſaid declaration unto A. D. tenant in poſſeſſion of another part of the premiſes, under which ſaid declaration and copy ſo delivered reſpectively in the words or to the term following, that is to ſay, I am informed, &c. And this deponent further ſaith, that at the times of ſuch delivery, he read over to the ſaid S. D. and A. D. reſpectively the ſaid notice ſubſcribed to the ſaid declaration and copies, and acquainted them ſeverally with the true intent and meaning thereof.

Sworn, &c. R. E.

In B. R.

Affidavit to enter up judgment on an old warrant of attorney.

A. B. of, &c. maketh oath, that he this deponent did, on the day of this inſtant April, ſee and converſe with Iſaac Watts, oatmeal maker, and William Watts, writing maſter, both of Hambrook, within the pariſh of Winterbourn, in the county of Glouceſter, being the perſons mentioned in the warrant of attorney hereto annexed, and that the ſaid Iſaac Watts and William Watts were then very well in health; and this deponent ſaith, that the ſum of ninety-five pounds mentioned in the ſaid warrant of attorney is wholly unpaid and unſatisfied, and that the ſaid warrant of attorney annexed was duly executed by the ſaid Iſaac Watts and William Watts reſpectively. A. B.

Sworn, &c.

In the King's Bench. Between { GEORGE JONES, plaintiff, and CHARLES POCOCK, defendant.

Infant's affidavit of his infancy, in order to the appointment of a *pro eoien ami* to ſue for him, and the next friend's conſent.

JOHN JONES, of, &c. and the above-named plaintiff George Jones, jointly and ſeverally make oath as follows: and firſt the ſaid George Jones for himſelf ſaith, that he is an infant under the age of twenty-one years, to wit, the age of eighteen years, or thereabouts: And this deponent further ſaith, that he is deſirous that the ſaid John Jones, this deponent's father, may be admitted his guardian to proſecute or defend all cauſes wherein this deponent is or may be made a party in this honourable court during the minority of him this deponent; and the ſaid John Jones for himſelf ſaith, that he is willing to be admitted the guardian of the ſaid George Jones, to proſecute or defend as above ſet forth.

Affidavit of the value of goods in order to obtain a replevin.

ELIZABETH CROWDER, of the pariſh of Saint Mary le Savoy, in the county of Middleſex, widow, maketh oath that the goods and chattels hereinafter mentioned, to wit, [Here inſert the goods] have lately, as this deponent has been informed and verily believes, been diſtrained for rent due or pretended to be

be due to him from one Ann Longland, widow, and which goods are of the value of ten pounds, and no more, as this deponent believes: And this deponent further ſaith, that ſhe is not intereſted in the ſaid goods or chattels, or in the diſtreſs made thereof by the ſaid T. B.

JOHN TALBOT, of Symond's-Inn, Chancery lane, London, gentleman, maketh oath and ſaith, that he this deponent did, on the twenty-fifth day of May inſtant, ſee the above-named plaintiff, Sarah Mills, ſign, ſeal, and deliver the letter of attorney hereunto annexed: And this deponent further ſaith, that the name, Sarah Mills, ſet and ſubſcribed to the ſaid letter of attorney, is the proper hand writing of the ſaid Sarah Mills, and the names of this deponent and Thomas Starkie, ſet and ſubſcribed to the ſaid letter of attorney as witneſs of the due execution thereof, are of the reſpective proper hands writing of this deponent and of the ſaid Thomas Starkie. J. T.

Sworn, &c.

Affidavit of executing letter of attorney.

JOHN VARLEY, of, &c. maketh oath, that on the twenty-fifth day of May inſtant, he this deponent ſerved the ſaid defendant Hugh Price perſonally with the rule of court and taxation of coſts hereunto annexed, by delivering to him a true copy of the ſame rule and taxation of coſts, and at the ſame time ſhewed him the ſaid rule and taxation; and this deponent then alſo by virtue of a letter of attorney, executed by the ſaid plaintiff for that purpoſe, which the ſaid deponent there alſo ſhewed to the ſaid defendant, and demanded of the ſaid defendant the ſum of thirteen pounds twelve ſhillings, at which it appears on the margin of the ſaid rule that the ſame coſts have been taxed, but the ſaid defendant then refuſed to pay the ſame coſts to this deponent, and has not yet paid the ſame coſts, or any part thereof, to him this deponent.

Sworn, &c.

Affidavit of demanding the money on rule of court and taxation of coſts.

Upon theſe affidavits the court was moved without notice of motion, and the court made the following rule, viz.

Eaſter term, 27 Geo. II.

MILLS *againſt* PRICE. } WEDNESDAY, May the firſt, it is ordered, that the defendant ſhall pay to plaintiff or her attorney, eleven pounds, together with coſts, to be taxed by Mr. Prothonotary Jones, if the plaintiff will accept thereof, and that thereupon all further proceedings in this action ſhall be ſtayed; but if the plaintiff will not accept thereof, the defendant ſhall immediately bring the ſaid eleven pounds into this court and plead the general iſſue, and upon trial of the iſſue between the ſaid parties, the plaintiff ſhall become nonſuit, or the jury ſhall not aſſeſs damages to the plaintiff exceeding the ſaid eleven pounds,

Rule.

then the plaintiff ſhall have no coſts to be taxed by ſaid Prothonotary, which coſts ſhall be paid out of the money ſo brought, if ſufficient for that purpoſe, and the reſidue, if any, ſhall be paid to the plaintiff, but if the money ſo brought into court be not ſufficient to pay the ſaid coſts, the deficiency ſhall be made good by the plaintiff; but if upon trial of the iſſue the jury ſhall aſſeſs damages to the plaintiff exceeding the ſaid eleven pounds, then judgment ſhall be entered for the plaintiff upon the verdict with coſts, and the plaintiff ſhall have the ſaid eleven pounds out of court towards ſatisfaction of ſuch damages, and may take out execution for the reſidue.

By the court, —— P.

On the motion of Serjeant Draper for the plaintiff.

This was a motion of courſe, with only half a guinea to the Serjeant.

Upon this rule was made out the attachment.

In the King's Bench. { EDWARD HARRIS, plaintiff. / WM. GREEN, Eſq defendant.

Affidavit to move for attachment for not returning the writ.

HENRY DAWSON of, &c. maketh oath and ſaith that he this deponent did, on the ſixth day of November inſtant, ſerve the ſheriff of Middleſex at the ſheriff's office in Furnival's Inn with a true copy of the rule hereunto annexed, by delivering the ſame to Mr. Frith, a clerk or agent at the ſaid office, and at the ſame time ſhewing him the ſaid original rule hereunto annexed: And this deponent ſaith that he hath this day ſearched with Mr. Heberdon at the king's bench office, and alſo at the cuſtos brevium office, for the return of the bill of Middleſex in this cauſe, but there doth not appear to be any return of the ſaid bill filed in either of the before-mentioned offices, nor hath this deponent received any return thereof from the ſaid ſheriff. HENRY DAWSON.

Sworn in open court, this twelfth day of November, 1770. }

By the court,

In the King's Bench. Between { JOHN CUMMINS, plaintiff, and S. A. JARVIS TWISDEN, bart. defendant.

Affidavit of debt by aſſignee of a judgment againſt the party againſt whom it was obtained to hold him to bail.

JOHN CUMMINS JOHNS, of in the county of Devon, eſquire, maketh oath and ſaith that ſir William Twiſden, bart. is juſtly indebted unto him this deponent in the ſum of two hundred pounds of lawful money of Great Britain as aſſignee of a judgment heretofore, to wit, as of Trinity term, in the twenty-fourth year of the reign of our lord the now king George the Third, recovered in this honourable court by the ſaid John Cummins againſt him the ſaid defendant upon and by virtue of his certain writing obligatory before then duly made to him the ſaid John

John Cummins in the penal ſum of eleven hundred pounds, and which ſaid judgment is now duly aſſigned to him this deponent by the ſaid John Cummins for a good and valuable conſideration, and now remains in full force, ſtrength, and effect, not reverſed, vacated, or ſatisfied.

Sworn, &c.

I have drawn this affidavit in the beſt way I can; and though it ſeems ſomewhat irregular to make the affidavit in the name of one and ſue in another, yet the nature of the caſe requires it, as a cloſe in action is not aſſignable ſo as to give the aſſignee a right to ſue in his own name upon it, though the court will compel the aſſignor to lend his for that purpoſe. T. BARROW.

Affidavit to ſue out a commiſſion of bankruptcy.

JOHN HOLMDEN, eſquire, maketh oath that Henry Holloway, of, &c. malſter and chapman, is and ſtands juſtly and truly indebted unto him this deponent in the ſum of one hundred pounds and upwards of lawful money of Great Britain for money lent and advanced to the ſaid H. H. by this deponent; and the ſaid H. H. is become a bankrupt within the true intent and meaning of the ſtatutes made and now in force concerning bankrupts, as this deponent is informed and verily believes. J. H.

Sworn, &c.

WRITS—ORIGINAL, JUDICIAL, AND FINAL.

Special *capias ad ſatisfaciendum* into a county palatine for the reſidue of defendant's debt after *fieri facias* returned.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to our Chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas by our writ we commanded you that by our other writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you ſhould command the ſaid ſheriff that he ſhould cauſe to be made of the goods and chattels of Richard Beal in his bailiwick two hundred pounds of debt which Thomas Fielding lately in our court before us at Weſtminſter had recovered againſt him, and alſo ſixteen pounds ten ſhillings which in our ſaid court before us were adjudged to the ſaid Thomas for his damages as well on occaſion of detaining that debt as for his coſts and charges by him about his ſuit in that behalf laid out, whereof the ſaid Richard is convicted, as appears to us of record, and that you ſhould have that money before us at Weſtminſter on Wedneſday next after three weeks from the day of the Holy Trinity now paſt, to be paid to the aforeſaid Thomas for his debt and damages aforeſaid, and you upon that day thereupon returned to us that you by virtue of the ſaid writ to you directed by another writ under the ſeal of our ſaid county palatine, and directed to the ſaid ſheriff of the ſaid county, had commanded the ſame ſheriff as the ſaid chancellor of

of the aforeſaid writ directed to him was commanded, which ſaid ſheriff, to wit, Dalby Ruſbotham, eſquire, in anſwer to the ſaid writ, ſaid, that by virtue of the ſaid writ to him directed and delivered he had cauſed to be levied of the goods and chattels of the ſaid Richard Peel the ſum of eight pounds towards the debt and damages aforeſaid, and that the ſaid Richard Peel had no other goods and chattels within his bailiwick whereby he could levy the remainder of the ſaid debt and damages, or any part thereof, as by the ſaid writ he was commanded; therefore we command you, that by our other writ under the ſeal of our ſaid county palatine duly to be made out and to be directed to the ſheriff of the ſaid county you command that he take the ſaid Richard Peel if he ſhall be found in his bailiwick, and him ſafely keep, ſo that he may have his body before us at Weſtminſter on Monday next after the morrow of All Souls to ſatisfy the ſaid Thomas in two hundred and ſixty-eight pounds eight ſhillings, the reſidue of the debt and damages aforeſaid, and have there then this writ. Witneſs William lord Mansfield, at Weſtminſter, the fourteenth day of June, in the ninth year of our reign. LEE.

Non omittas capias ad ſatisfaciendum in debt for the reſidue afterpart had been levied under a *fieri facias*.

GEORGE the Third, &c. to the ſheriff of Derbyſhire, greeting: Whereas we lately commanded you by our writ that you ſhould not omit by reaſon of any liberty within your county, but that you ſhould enter the ſame, and of the goods and chattels of Daniel Roper in your bailiwick you ſhould cauſe to be made eight hundred pounds which Joſeph Buſhly and Mary his wife (which ſaid Mary is adminiſtratrix of all and ſingular the goods, chattels, and credits which were of John Wall, late of Wirkſworth, in your county, deceaſed, unadminiſtered by John Wall the younger, deceaſed, in his life time executor of the laſt will and teſtament of the ſaid John Wall, of Wirkſworth aforeſaid, with the will of the ſaid John Wall, of Wirkſworth aforeſaid, annexed) had lately in our court before us at Weſtminſter recovered againſt him of debt, and alſo ninety-three ſhillings which to the ſaid J. Buſhly and Mary his wife in our court before us were adjudged for their damages which they had ſuſtained as well on occaſion of detaining that debt as for their coſts and charges by them about their ſuit in that behalf laid out, whereof the ſaid Daniel was convicted, as appears to us of record, and that you ſhould have that money before us at Weſtminſter on Friday next after the morrow of the Holy Trinity, to render to the ſaid Joſeph Buſhly and Mary his wife for their debt and damages aforeſaid, and you upon that day thereupon returned to us that you by virtue of the ſaid writ to you directed had levied of the goods and chattels of the ſaid Daniel Roper fifty-eight pounds twelve ſhillings and threepence (beſides poundage, bailiff's fees, and expences of levying) towards the ſum of eight hundred pounds and ninety-three ſhillings, which ſum of fifty-eight pounds twelve ſhillings and threepence you had

ready at the day and place aforeſaid to be paid to the ſaid Joſeph B. and Mary his wife towards the debt and damages aforeſaid, as you by the writ aforeſaid was commanded; and you further certified that the ſaid D. Roper had no other goods or chattels in your bailiwick whereof you could make the reſidue of the ſaid debt and damages; therefore we command you that you do not omit by reaſon of any liberty in your county, but that you enter the ſame, and take the ſaid Daniel R. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after to ſatisfy the ſaid James Buſhly and Mary his wife ſeven hundred and forty-ſix pounds and ninepence, the reſidue of the ſaid eight hundred pounds and ninety three ſhillings, the debt and damages aforeſaid, and have there then this writ. Witneſs, &c.

STORMONT AND WAY.

Teſtatum capias ad ſatisfaciendum (either debt or caſe.)

GEORGE, &c. to our ſheriff of , greeting: We command you that you take, &c. [as in a common *capias ad ſatisfaciendum*, ſee folio p. 233, to the words "as appears to us of record," then add] and whereupon our ſheriff of returned to us at a certain day now paſt that the ſaid C. D. was not found in his bailiwick, whereas it is ſufficiently atteſted in our ſaid court before us that the ſaid C. D. doth lurk and ſecrete himſelf in your county, and have there then, &c.

Teſtatum capias ad ſatisfaciendum in a county palatine.

TO our chancellor of our county palatine of Lancaſter, or his deputy there, greeting: We command you, that by our writ, &c. &c. [as in the *capias ad ſatisfaciendum* to a county palatine, and after the word "record" add] and whereupon, &c. [as above, only inſtead of "your county" ſay] doth lurk, &c. in our ſaid county palatine [or into the city of Cheſter, "in the ſaid city of Cheſter."]

Teſtatum fieri facias.

Obſerve the above directions as to *teſtatum capias ad ſatisfaciendum*, only inſtead of the words "was not found, &c." ſay returned, &c. that the ſaid C. D. had not any goods or chattels in his bailiwick whereof he could cauſe the ſaid monies to be levied, whereas it is ſufficiently atteſted in our court before us that the ſaid C. D. hath goods and chattels ſufficient in your bailiwick whereof you [or in our ſaid county palatine whereof the ſaid ſheriff] may cauſe the ſaid monies to be made, and have, &c.

Teſtatum fieri facias, or *fieri facias*, out of a county palatine.

And whereupon our chancellor of our county palatine of Lancaſter returned to us at a certain day now paſt that the ſheriff of our ſaid county palatine in anſwer to our writ to him directed had returned to him our ſaid chancellor that the ſaid C. was not found, or had any goods, &c. as above.

GEORGE

Form of a teſtatum capias in the king's bench.

GEORGE the Third, &c. (*a*) to the ſheriff of Lincolnſhire, greeting: We command you (*b*), that you take Edward Holford, late of Holbeach, in your county, chapman, if he ſhall be found in your bailiwick, and ſafely keep him, ſo that you may have his body before us wheresoever we ſhall then be in England, to anſwer to Peter Sellon in a plea, that whereas, &c. [to "as it is ſaid"] and for that our ſheriff of Middleſex returned to us at a certain day now paſt that the ſaid Edward was not found in his bailiwick, whereupon on the behalf of the ſaid Peter it is certified in our court before us that the ſaid Edward runs up and down and ſecretes himſelf (*c*) *in your county*, and have you there this writ. Witneſs William earl of Mansfield, at Weſtminſter, the day of , in the year of our reign.

ADAMS.

You are ſerved with this precept to the intent that you may by your attorney appear in his majeſty's court of king's bench at the return thereof, being the day of 1780, wheresoever the ſame ſhall then be in England, in order to your defence in this action.

(*a*) If in county palatine, to our chancellor of our county palatine of Lancaſter, chamberlain of our county palatine of Cheſter, to the right reverend John, by divine providence, biſhop of Durham, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he take , late of , in county palatine, chapman, if he ſhall be found in his bailiwick, and ſafely keep him, ſo that he may have his body before us, &c.

(*b*) If *non omittas*, then you omit not by reaſon of any liberties within your bailiwick, but that you enter the ſame, and take, &c.

(*c*) If into a county palatine, in our ſaid county palatine.

Capias ad ſatisfaciendum againſt bail after a *ſcire facias*.

GEORGE the Third, &c. to the ſheriff of London, greeting: We command you, that you take Thomas Richardſon, of Cheapſide, London, taylor, and Walter Barry, of Cheapſide, London, baker, the bail of Henry Jenkins, if they ſhall be found in you bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter on Monday next after eight days of the Purification of the Bleſſed Virgin Mary, to ſatisfy William Coales and Philip Dean Shute four hundred and ninety-two pounds ten ſhillings, which the ſame William and Philip Dean have lately in our court before us at Weſtminſter, by bill, without our writ, and by the judgment of the ſaid court, recovered againſt him the ſaid Henry for their damages which they had ſuſtained as well by reaſon of the not performing certain promiſes and undertakings by him the ſaid Henry to the ſaid William and Philip Dean lately made, as for their coſts and charges by them about their ſuit in that behalf expended, whereof the ſaid Henry is convicted, as appears to us of record; and wherein in our court before us at Weſtminſter it has been conſidered that the

ſaid William and Philip Dean ſhould have their execution againſt the ſaid Thomas Richardſon and Walter Barry for their damages aforeſaid, according to the force, form, and effect of a certain recognizance by them the ſaid Thomas and Walter in our ſaid court before us for the ſaid Henry Jenkins at the ſuit of the ſaid William and Philip Dean at the ſuit aforeſaid, acknowledged by the default of the ſaid Thomas and Walter, as it appears likewiſe to us of record; and have there then this writ. Witneſs, &c.

STORMONT AND WAY.

Capias ad ſatisfaciendum in ejectment for damages and coſts.

GEORGE the Third, &c. to the ſheriff of Derbyſhire, greeting: We command you, that you take Robert Eyley, otherwiſe Eley, if he may be found in your bailiwick, and ſafely keep him, ſo that you may have his body before us at Weſtminſter, on Monday next after the octave of Saint Hilary, to ſatisfy J. Oates in twenty one pounds for his damages which he hath ſuſtained by reaſon of a certain treſpaſs and ejectment committed by the ſaid Robert againſt the aforeſaid James with force and arms againſt our peace as for his coſts and charges by him put to about his ſuit in this behalf, whereof the ſaid Robert is convicted, as it appears to us of record; and have there then this writ. Witneſs William lord Mansfield, at Weſtminſter, the twenty-eighth day of November, in the ninth year of our reign.

LEE.

Capias ad ſatisfaciendum in ejectment into a county palatine.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine of Lancaſter duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſaid ſheriff that he take Joſhua Hoyle and Mary his wife, if they ſhall be found in his bailiwick, and ſafely keep them, ſo that you may have their bodies before us at Weſtminſter, on Monday next after the octave of Saint Hilary, to ſatisfy John Doe forty-five pounds which the ſaid John lately in our court before us at Weſtminſter recovered againſt the ſaid John and Mary for his damages which he hath ſuſtained by occaſion of a certain treſpaſs and ejectment committed by the ſaid Joſhua and Mary againſt the ſaid John, with force and arms, and againſt our peace, at Whalley, in your county, as for his coſts and charges by him about his ſuit in that behalf laid out, whereof the ſaid Joſhua and Mary are convicted, as appears to us of record; and have you there this writ. Witneſs, &c.

LEE.

Capias ad ſatisfaciendum in ejectment for the reſidue afterpart had been levied under a *fieri facias*.

GEORGE the Third, &c. to the ſheriff of Derbyſhire, greeting: Whereas we lately commanded you by our writ that you ſhould cauſe to be made of the goods and chattels of Robert Eyley, otherwiſe Eley, in your bailiwick, twenty-one pounds which James

James Oates lately in our court before us at Weſtminſter recovered againſt him as well by reaſon of a certain treſpaſs and ejectment lately committed by the ſaid Robert againſt the aforeſaid James, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid Robert is convicted, as appears to us of record; and that you ſhould have that money before us at Weſtminſter on Monday next after fifteen days from the day of Saint Martin, to be paid to the ſaid James for his damages, coſts, and charges aforeſaid; and you upon that day thereupon returned to us that you by virtue of the ſaid writ to you directed did cauſe to be levied of the goods and chattels of the ſaid Robert two ſhillings, part of the damages aforeſaid, which ſaid money before us at the day and place aforeſaid you had ready, as by the writ aforeſaid you was commanded, to be paid to the ſaid James in part ſatisfaction of thoſe damages; and you further certified that the ſaid Robert had no other or more goods and chattels in your bailiwick whereof you could cauſe to be made the reſidue of the damages aforeſaid, or any part thereof; therefore we command you that you take the ſaid Robert if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after to ſatisfy the ſaid James twenty pounds eighteen ſhillings, the reſidue of the ſaid twenty-one pounds, the damages aforeſaid, and have then there this writ. Witneſs William lord Mansfield. LEE.

Scire facias againſt bail in debt in B. R.

GEORGE the Third, &c. to our ſheriff of , greeting: Whereas A. B. lately in our court before us at Weſtminſter, by bill, without our writ, and by the judgment of the ſame court, recovered againſt C. D. as well a certain debt of pounds as alſo ſhillings which were adjudged in our ſame court to the ſaid A. B. for his damages which he ſuſtained as well by occaſion of the detaining of that debt as for his coſts and charges by him about his ſuit in that behalf laid out and expended, whereof the ſaid C. is convicted, as appears to us of record; yet execution of the ſaid judgment ſtill remains to be done; and whereas E. F. , in the , baker, and G. H. , in the , cordwainer, heretofore, to wit, in the term of , in the year of our reign, in our ſaid court before us at Weſtminſter, came perſonally, and became pledges and bail for the ſaid C. D. that if it ſhould happen the ſaid C. ſhould be condemned in the plea aforeſaid, then they the ſaid E. F. and G. H. and each of them for himſelf granted that as well the debt, as alſo ſuch damages, coſts, and charges as ſhould be adjudged to the ſaid A. B. in that behalf ſhould be made of their and each of their lands and chattels, and to be levied to the uſe of the ſaid A. B. if it ſhould happen that the ſaid C. D. ſhould not pay the ſaid debt and damages, coſts, and charges to the ſaid A. B. or ſhould not render himſelf to the priſon of the marſhal of our Marſhalſea before us; yet the ſaid C. D. hath not paid to the ſaid A. B. the ſaid debt and damages, coſts, and charges,

not

nor ſurrendered himſelf to the priſon of the marſhal of our Marſhalſea before us, as we have received information from the ſaid A. in our ſaid court before us, whereupon the ſaid A. hath prayed us to provide him proper remedy in this behalf, and we being willing to do what is juſt, command you, that by honeſt and lawful men of your bailiwick you make known to the ſaid E. F. and G. H. that they be before us at Weſtminſter on next after to ſhew if they have or know any thing to ſay for themſelves why the ſaid A. B. ought not to have execution againſt them according to the force, form, and effect of the ſaid recognizance, if it ſhall ſeem expedient, &c. and further to do and receive all and ſingular thoſe things which our ſaid court before us ſhall then and there conſider of them in this behalf; and have you there then the names of thoſe by whom you ſhall have made this known unto them, and this writ. Witneſs William lord Mansfield, at Weſtminſter, the day of , in the year of our reign.

LEE.

An attachment into a county palatine at ſuit of an attorney of the court of B. R.

GEORE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he attach C. D. and E. F. if they may be found in his bailiwick, and ſafely keep them, ſo that he may have their bodies before us at Weſtminſter on next after to anſwer A. B. gentleman, one of the attornies of our court before us, according to the liberties and privileges of ſuch attornies time out of mind uſed and approved of, to anſwer us concerning ſuch matters and things, &c. and in the ſaid court of a plea of treſpaſs; and have you there then this writ. Witneſs, &c.

LEE.

Attachment at the ſuit of an attorney of C. B.

GEORGE the Third, &c. to the ſheriff of , greeting: Attach C. D. and E. F. ſo that you may have them before our juſtices at Weſtminſter on next after to anſwer A. B. gentleman, one of the attornies of our court of common pleas, according to the liberties and privileges of the ſame court for ſuch attornies and other miniſters time out of mind uſed and approved in the ſame court of a plea of treſpaſs upon the caſe; and have you there then this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter.

DICKINS.

Attachment for not performing an award, in C. B.

[GO on as in another, until you come to "to anſwer us concerning ſuch matters and things," &c. and then indorſe on the back] by rule of court dated the day of , for not performing the award.

COOKE.

GEORGE

Habeas corpus ad recipiendum in B. R.

GEORGE the Third, to the marſhal of our Marſhalſea before us being, greeting: We command you, that you have the body of C. D. detained in our priſon under your cuſtody, as it is ſaid, under ſafe and ſecure conduct, together with the day and cauſe of his being taken and detained, by whatſoever name he may be called in the ſame, before us at Weſtminſter on to anſwer A. B. of a plea of treſpaſs, and alſo to a bill of by him the ſaid A. againſt him the ſaid C. for pounds on promiſe, according to the cuſtom of our court before us to be exhibited, and alſo to do and receive all and ſingular thoſe things which our ſaid court ſhall then and there conſider of him in this behalf. Witneſs William lord Mansfield, at Weſtminſter, the day of , in the year of our reign. LEE.

Habeas corpus wherejudgment goes againſt one defendant by default.

GEORGE the Third, &c. [as in others, till you come to] jurors, &c. [before, &c. at W. between the right honourable Peter lord King, baron of Oclam, plaintiff, and William Hawkins, late of, &c. defendant, of a plea of treſpaſs upon the caſe, and to enquire what damages the ſaid lord King hath ſuſtained by occaſion of the treſpaſs upon the caſe aforeſaid done to the ſaid lord King by one William Hawkins, late of, &c. together with the ſaid William Hawkins, whereof the aforeſaid William Hawkins our court before our juſtices at Weſtminſter is convicted by default; and have you this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, &c.

Brevium de inquirendo in dower.

GEORGE the Third, &c. to the ſheriff of S. greeting: Know you that H. K. widow, who was the wife of Francis K. deceaſed, in our court before our juſtices at Weſtminſter, recovered her ſeiſin againſt Francis Keen and J. Keen of the third part of one meſſuage, five gardens, one hundred acres of land, twenty acres of meadow, ſixty acres of paſture, twenty acres of wood, twenty acres of furze and hearth, and common of paſture for all manner of cattle, in the pariſh of , in your county, as her dower, by the endowment of the ſaid Francis K. deceaſed, her late huſband, by our writ of dower, whereof ſhe hath had nothing, by default of the ſaid F. K. and therefore we command you, that without delay you cauſe the ſaid H. K. to have full ſeiſin of the third part aforeſaid to be delivered to her, to hold to her in ſeveralty by due metes and bounds, and in what manner you ſhall execute this our precept do you make appear to our juſtices at Weſtminſter [The return]: We command you alſo, that by the oath of honeſt and lawful men of your county, you diligently enquire if the ſaid F. died ſeiſed of the tenements and common aforeſaid in his demeſne as of fee tail, and if by the ſaid inquiſition you ſhall find he did, that you then by your ſaid oath diligently

(a) In Dower.

enquire

enquire what is the value of the tenements and common aforesaid, beyond all reprizes, and what time hath elapsed since the death of the said F. and also what damage the said H. hath sustained, as well by reason of the detaining her aforesaid dower as for her costs and charges laid out and expended by her about her suit in this behalf, and the inquisition which you shall take thereof do you make appear to our justices at Westminster at the said term, under your seal and the seals of those by whose oath you shall take such inquisition; and have you there the names of those by whose oath you shall take this inquisition, and this writ. Witness, &c.

COOKE.

GEORGE the Third, &c. to the sheriff of Middlesex, greeting: We command you that you take Richard Hambly if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster, on next after to satisfy John Evans twenty-two pounds ten shillings, which the said John lately in our court before us at Westminster recovered against him for his damages which he had sustained as well by reason of the converting and disposing of divers goods and chattels of the said John by the said Richard, before then converted and disposed of to his own use, as for his costs and charges by him about his suit in that behalf expended, whereof the said Richard is convicted; as appears to us of record; and also ten pounds, which were adjudged to the said John in our exchequer chamber at Westminster, according to the form of the statute in such case made and provided, for his damages, costs, and charges which he had sustained and laid out by occasion of the delay of the execution of the judgment aforesaid on pretence of prosecuting our writ of error by the said Richard, prosecuted of and upon the premises before our justices of the bench and the barons of the exchequer of our degree of coif, in our exchequer chamber aforesaid, according to the form of the statute in such case made and provided, whereof the said Richard is also convicted, as appears to us of record; and also nine pounds ten shillings which the said John lately in our court before us at Westminster, recovered against the said Richard for his damages which he had sustained as well by reason of the detention of the said first-mentioned damages, costs, and charges, as for his costs and charges by him about his suit in that behalf expended, whereof the said Richard is also convicted, as appears to us of record; and twelve pounds which were adjudged to the said John in our said exchequer chamber, at Westminster aforesaid, according to the form of the statute in such case made and provided, for his damages, costs, and charges which he had sustained and laid out by occasion of the delay of the said last-mentioned judgment, on pretence of prosecuting our writ of error by the said Richard prosecuted of and upon the premises last aforesaid, before our justices of the bench and the barons of our exchequer chamber of the degree of the coif, in our exchequer chamber aforesaid,

Writ of *capias ad satisfaciendum* for debt and costs in the first action, which was in trover, and the costs in error and in debt on the judgment, and costs in error on the last-mentioned judgment.

The debt and costs in the first action which was in *trover*.

The costs in error in the exchequer.

The costs in the action upon the judgment.

Costs in error upon the last-mentioned judgment.

ſaid, according to the form of the ſtatute in ſuch caſe made and provided, whereof the ſaid Richard is alſo convicted, as appears to us of record; and have there then this writ. Witneſs Lloyd lord Kenyon, at Weſtminſter, the ſeventeenth day of July, in the thirty-firſt year of our reign. *Drawn by* Mr. Tidd.

Writ of *retorno habendo* on a judgment after cognizance.

GEORGE the Third, by the grace of God, of Great Britain, &c. to the ſheriff of Middleſex, greeting: Whereas C. T. lately in our court before us at Weſtminſter, was ſummoned to anſwer W. L. in a plea, wherefore the ſaid C. T. on the twenty-eighth day of July, in the year of Our Lord 1789, in a certain dwelling-houſe of him the ſaid W. in the pariſh of St. Dunſtan, Stepney, in the county of Middleſex, and within the juriſdiction of our ſaid court, before us, took the goods and chattels of him the ſaid W. to wit, [State the goods as in the declaration] and there unjuſtly detained the ſame againſt ſureties and pledges, until, &c. and the ſaid C. T. appearing in our ſaid court before us for certain cauſes by him alledged in our ſaid court as bailiff of W. N. and J. N. well acknowledged the taking of the ſaid goods and chattels in the ſaid dwelling-houſe in which, &c. for certain arrears of rent, to wit, for the ſum of nine pounds, part of the yearly rent of twenty pounds of lawful, &c. due and in arrear to the ſaid W. and J. Newberry, for the ſaid dwelling-houſe in which, &c. with the appurtenances, held and enjoyed under and by virtue of a certain demiſe thereof, for the ſpace of two years and one quarter of another year next before and ending on the twenty-fourth day of June, A. D. 1789, the reſidue of the ſaid rent for the ſpace of two years and one quarter of another year ending as aforeſaid, being paid and ſatisfied; whereupon the ſaid W. L. although ſolemnly called in our ſaid court before us, came not, nor did he further proſecute his writ aforeſaid; wherefore it was conſidered in our ſaid court before us that the ſaid W. L. ſhould take nothing by his writ aforeſaid, but that he and his pledges to proſecute ſhould be in mercy, and that the ſaid C. T. ſhould go thereof without day, &c. and that he ſhould have a return of the ſaid goods and chattels to hold to him irrepleviſable for ever; therefore we command you, that without delay you cauſe the ſaid goods and chattels to be returned to the ſaid C. T. to hold to him irrepleviſable for ever, and that you do not deliver them on the complaint of the ſaid W. L. without our writ, which expreſsly mentions the judgment aforeſaid, and how you ſhall have executed this our writ make appear to us on , wheresoever we ſhall then be in England; and have there this writ. Witneſs Lloyd lord Kenyon, at Weſtminſter, the day of , in the thirty-firſt year of our reign.

Drawn by Mr. Tidd.

GEORGE

Fieri facias on judgment for costs for want of surrejoinder.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, to the sheriff of , greeting: We command you that you cause to be made of the goods and chattels in your bailiwick of William Gevers pounds, which lately in our court before us were adjudged to Charles Shepherd, according to the form of the statute in such case made and provided, for his costs and charges by him laid out about his defence in a certain plea of trespass prosecuted in our said court before us by the said William against the said Charles, for that the said Charles had not surrejoined to certain rejoinders made by the said W. in the said plea whereof the said C. is convicted, as appears to us of record; and have you there that money before us at Westminster, on next after , to render to the said William for his costs and charges aforesaid; and have you there then this writ. Witness Lloyd lord Kenyon, the day of in the thirty-second year of our reign.

STORMONT and WAY.

Pretipe and *capias* in debt at the suit of one obligee and the assignee of another, a bankrupt, against an obligor.

LONDON, to wit. Command J. F. late of, &c. that justly and without delay he render unto H. E. and S. C. (which said S. C. is assignee of the estate and effects of J. S. a bankrupt, according to the form and effect of the several statutes concerning bankrupts) the sum of one hundred and ninety-three pounds of good and lawful money of Great Britain, which he owes to and unjustly detains from them, as it is said: And unless, &c. to answer to H. E. and S. C. (which said S. C. is assignee of the estate and effects of J. S. a bankrupt, according to the force, form, and effect of the several statutes concerning bankrupts) of a plea that he render to them the said H. E. and S. C. (as the said S. C. is assignee as aforesaid) the sum of one hundred and ninety-three pounds of good and lawful money of Great Britain, which he owes to and unjustly detains from them, as it is said; and have you there this writ. Witness, &c.

Capias.

Writ of possession in C. P. in ejectment.

GEORGE, &c. to the sheriff of Cornwall, greeting: Whereas William Threadneedle, lately in our court before our justices at Westminster, by the consideration of the same court recovered his term yet to come of and in three messuages, &c. [as in the declaration], with the appurtenances, in the parish of Denanzable, in your county, against Thomas Evans, late of , in your county, which John Allen, gentleman, on the twentieth day of August, in the eighth year of our reign, demised to the said William, to hold and enjoy to the said William and his assigns from the twelfth day of July then last past to the full end and term of five years then next following, and fully to be complete and ended, which is not yet expired, and ejected the said William out of his said farm; therefore we command you that you cause the said William to have his possession of his said term yet to come of and in the said tene-

ments, with the appurtenances; and how you ſhould have executed this precept make appear to our juſtices at Weſtminſter in fifteen days from the feaſt day of Eaſter; and have you there this writ. Witneſs, &c.

Attachment againſt the ſheriff in C. P.

GEORGE, &c. to our coroners of our county of Cornwall, greeting: Attach A. B. eſquire, our ſheriff of our ſaid county of Cornwall, ſo that you may have him before our juſtices at Weſtminſter, on Wedneſday next after fifteen days of Eaſter Day, to anſwer us of ſuch things which on our behalf ſhould be then objected to him; and have you there this writ. Witneſs, ſir John Willis, knight, at Weſtminſter, the twenty-firſt day of February, in the twelfth year of our reign. COOKE.

Certiorari to inferior court.

GEORGE the Third, &c. to the ſteward of our ſtannary court of Blackmore, in the county of Cornwall, or to his deputy there greeting: We being willing to be certified certain cauſes of all ſuits or plaints, bills, pleas, and demands in our courts before you levied, brought, or begun, now depending or undetermined between A. Geny, widow, plaintiff, and J. Hilſman, defendant, and of all records and proceedings therein had or made, we command you that the ſaid ſuits or plaints, bills, pleas, or demands aforeſaid, and all the records and proceedings therein, with all things relating thereto, as fully and entirely as the ſame now remain before you, by whatſoever name or names the parties aforeſaid, or either of them, are called in the ſame, together with the day and days of levying of them, and every of them, you diſtinctly and plainly make appear to our juſtices at Weſtminſter, in eight days from the day of St. Hilary, that our ſaid court conſider the premiſes may cauſe therein to be further done what is juſt and right in that behalf; and have you there then, &c.

Superſedeas in K. B. for want of charging in execution.

GEORGE the Third, &c. to the ſheriff of Hertfordſhire, greeting: Whereas we lately commanded our late ſheriff of Hertfordſhire, that he ſhould take Thomas Williamſon, and him ſafely keep, ſo that he might have his body before us at Weſtminſter, on next after , which was in the ſeventeenth year of our reign, to anſwer to Michael Deacon for forty-five pounds, upon promiſes; and whereas the ſaid Thomas afterwards, to wit, on or about the thirty-firſt day of January laſt, was charged in the cuſtody with a declaration in our ſaid court before us, at the ſuit of the ſaid Michael in the plea aforeſaid; and whereas afterwards, to wit, in Trinity term laſt, the ſaid Michael obtained judgment in our ſame court before us againſt the ſaid Thomas, but hath not further proceeded to charge him in execution; and becauſe the ſaid Thomas now in our court before us hath appear-

ed and put in bail to anſwer the aforeſaid Michael in the plea aforeſaid, therefore we command you that of the taking, arreſting, or impriſoning of the ſaid Thomas Williamſon by reaſon aforeſaid, you altogether ſuperſede, and if the ſame Thomas on the ſaid occaſion, and not otherwiſe, you have taken and in priſon detained, then him from that priſon without delay you cauſe to be delivered, and permit him to go at large, at your peril. Witneſs, William lord Mansfield, at Weſtminſter, the day of , in the year of our reign.

LEE

Habeas corpus ad faciendum et recipiendum in C. P.

GEORGE, &c. to the ſheriff of M. greeting: We command you that you have the body of M. C. widow, who is detained in our priſon under your cuſtody as it is ſaid, under ſafe and ſecure conduct, together with the day and cauſe of her being taken or detained, by whatſoever name the ſaid Mary may be charged in the ſame, before A. B. eſquire, one of our juſtices of our court of common bench, at his chambers, ſituate in Serjeant's Inn, in Chancery-lane, immediately after the receipt of this writ, to do and receive what our ſaid juſtice in this cauſe ſhall then and there determine; and have you there this writ. Witneſs, ſir John Eardley Wilmot, knight, at Weſtminſter, the twelfth day of February, in the eighth year of our reign.

DICKENS.

Capias ad ſatisfaciendum into county palatine, in debt (only ſealed) in K. B.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſaid county palatine, you command the ſame ſheriff that he take A. B. if he ſhall be found in his bailiwick, and him ſafely keep, ſo that he may have his body before us at Weſtminſter, on , to ſatisfy C. D. a debt of one hundred pounds, which the ſaid C. D. lately in our court before us at Weſtminſter recovered againſt the ſaid A. B. as alſo ſixty-three ſhillings which in our ſaid court before us at Weſtminſter were adjudged to the ſaid C. D. for his damages which he ſuſtained, as well by occaſion of the detaining the ſaid debt as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid A. B. is convicted, as appears to us of record; and have you there then this writ. Witneſs, &c.

Non omittas latitat.

GEORGE the Third, &c. to the ſheriff of Somerſetſhire, greeting: We command you that you do not omit on account of any liberty within the city of Bath, or any other liberty within your county, but that you enter it and take Edward Robins if he may be found in your bailiwick, and ſafely keep him ſo that you may have his body before us at Weſtminſter, on , to anſwer

to Joſeph Hill in a plea of treſpaſs; and alſo to a bill of the ſaid Joſeph to be exhibited againſt the ſaid Edward for forty pounds upon promiſe, according to the cuſtom of our court before us; and have you there this writ. Witneſs William lord Mansfield, at Weſtminſter, &c. LEE.

An *elegit* in K. B.

GEORGE the Third, &c. to the ſheriff of Bedfordſhire, greeting: Whereas Henry Juſtice, eſquire, lately before us at Weſtminſter, by bill without our writ, and by the judgment of the ſame hath recovered againſt Thomas Norcliffe, at another time called Thomas Norcliffe, of Aſpley Guiſe in the county of Bedford, eſquire, three hundred and forty pounds debts, and fifty-three ſhillings for his damages which he hath ſuſtained, as well by the detention of that debt as for his expences and coſts by him laid out in and about the ſuit in that behalf, whereof the ſaid T. N. is convicted, as it appears to us of record; and becauſe the aforeſaid Henry Juſtice came into our court before us according to the form of the ſtatute in this caſe made and provided, and hath elected to have delivered to him all the goods and chattels of the ſaid Thomas (except the oxen and beaſts of the plough), and likewiſe a moiety of all and ſingular the lands and tenements of the ſaid T. in your bailiwick, to hold to him the ſaid goods and chattels as his proper goods and chattels, and alſo to hold the ſaid moiety to him and his aſſigns as his free tenement, according to the form of the ſtatute, until the debt and damages aforeſaid ſhall be thereof fully levied; wherefore we command you that all the goods and chattels of the aforeſaid T. in your bailiwick (except the oxen and beaſt of the plough), and likewiſe the moiety of all the lands and tenements of the aforeſaid T. in your bailiwick, of which the aforeſaid T. on next after , in the ſixth year of our reign, on which day the judgment aforeſaid was obtained, or ever after was ſeiſed to the aforeſaid Henry, without delay you cauſe to be delivered by reaſonable value and extent the goods and chattels; and alſo to hold a moiety of the lands and tenements as his own free tenements to him and his aſſigns, according to the form of the ſtatute aforeſaid, until the debt and damages aforeſaid ſhall be thereof levied; and in what manner you execute this our writ certify to us at Weſtminſter, on next after , under your ſeal and the ſeals of them by whoſe oath you ſhall make that extent and appraiſement; and have you there this writ. Witneſs William lord Mansfield, at Weſtminſter, the day of , in the year of our reign. VENTRIS.

Superſedeas for want of declaring in K. B.

GEORGE the Third, &c. to the ſheriff of Hertfordſhire, greeting: Whereas we lately commanded you by our writ that you ſhould take Joſeph Clemant if he ſhould be found in your bailiwick, and him ſafely keep, ſo that you might have his body before us at Weſtminſter, on ; in the fourth year of our reign, to

to anſwer to Charles Harding in a plea of treſpaſs; and becauſe the aforeſaid Joſeph hath remained in our priſon under your cuſtody until this time by virtue of our ſaid writ without any proſecution by the ſaid Charles againſt the ſaid Joſeph on the aforeſaid writ; and becauſe the aforeſaid J. came into our court before us, and hath put in common bail to anſwer the ſaid Charles of the plea aforeſaid, according to the courſe of the ſame court before us, therefore we command you that you entirely ceaſe from the further taking, arreſting, attaching, or in any wiſe moleſting him on that account; and if you have taken him on that account, and not on any other, then him the ſaid Joſeph from the priſon whereby he is detained, if he is detained on that account and not on any other account, you cauſe him to be delivered without delay, at your peril. Witneſs William lord Mansfield, at Weſtminſter, the day of , in the year of our reign.

LEE.

Ac etiam, part of form of a *teſtatum capias*.

GEORGE the Third, &c.: And alſo that the aforeſaid C. may anſwer to the ſaid G. according to the cuſtom of our court, in a certain plea of debt upon demand for two hundred pounds; and whereupon our ſheriff of Hertfordſhire returned to our juſtices at Weſtminſter, at a certain day now paſt, that the ſaid defendants are not found in his bailiwick, whereas it is teſtified in our ſame court that they lurk up and down, and ſecrete themſelves in your county; and have you there, &c.

A *teſtatum fieri facias* out of one county palatine into another, in an action of aſſumpſit in B. R.

GEORGE the Third, &c. to the reverend father in God Richard, by divine providence, biſhop of Durham, or to his deputy there, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaſter that by our writ under the ſeal of our ſaid county palatine in due manner to be made out, and to be directed to the ſheriff of our ſaid county palatine of Lancaſter, he ſhould command the ſame ſheriff that he ſhould cauſe to be made of the goods and chattels of Richard Walker in his bailiwick fifty pounds, which Serjeant Boardman lately in our court before us recovered againſt him for his damages which he hath ſuſtained, as well by reaſon of the not performing of certain promiſes and undertakings made by him the ſaid Richard Walker to the ſaid Serjeant, as for his coſts and charges laid out by him about his ſuit in that behalf, whereof the ſaid Richard Walker is convicted, as appears to us of record; and that he ſhould have that money before us in our ſame court at a certain day now paſt, to render to the ſaid Serjeant for his damages aforeſaid, and our ſaid chancellor of our ſaid county palatine of Lancaſter at that day returned to us, that the ſaid ſheriff in anſwer to the ſaid writ to him directed had returned to him our ſaid chancellor that the ſaid Richard Walker had no goods or chattels in his bailiwick upon which he could cauſe to be levied the damages aforeſaid; whereupon on the be-

half of the ſaid Serjeant it is ſufficently atteſted in our court before us that the ſaid Richard Walker hath goods and chattels ſufficient in your biſhoprick whereof you may cauſe the ſaid monies to be made; therefore we command you that by our writ under the ſeal of our ſaid biſhoprick duly to be made out, and to be directed to the ſheriff of the ſaid county, you command the ſaid ſheriff that of the goods and chattels of Richard Walker in his bailiwick he cauſe to be made the ſaid fifty pounds; and that he have that money before us at Weſtminſter on Monday next after the morrow of All Souls, to render to the ſaid Serjeant for his damages aforeſaid; and have you there then this writ. Witneſs William lord Mansfield, at Weſtminſter, &c. LEE.

Writ of poſſeſſion on a double demiſe into a county palatine in ejectment.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas John Den lately in our court before us at Weſtminſter by our writ, and by the judgment of the ſame court recovered againſt the ſaid Richard Fenn, late of Lancaſter in the ſaid county, yeoman, his term yet to come of and in two meſſuages, two cottages, two barns, two ſtables, two orchards, two gardens, ten acres of land, ten acres of meadow, ten acres of paſture, with the appurtenances, in Middle Wilton in the ſaid county of Lancaſter, which James Rithwell, on the firſt day of September, in the year of Our Lord 1766, demiſed to the ſaid John for a term which is not yet expired, to wit, from the twenty-eighth day of Auguſt then laſt paſt, for and during, and unto the full end and term of three years from thence next enſuing, and fully to be complete and ended; by virtue of which demiſe, &c.; and alſo his term yet to come of and in two other meſſuages, two other cottages, two other barns, two other ſtables, two other orchards, two other gardens, ten other acres of land, ten other acres of meadow, and ten other acres of paſture, with the appurtenances, in Middle Hilton aforeſaid, which Edward Parker, gentleman, on the tenth day of January, in the year of Our Lord 1767, demiſed to the ſaid John for a term which is not yet expired, to wit, from the ninth day of the ſaid month of January, for and during, and unto the full end and term of then next following, and fully to be complete and ended; by virtue of which ſaid laſt-mentioned demiſe the ſaid John entered into the ſaid laſt-mentioned tenements, with the appurtenances, reſpectively demiſed to him as aforeſaid, and was poſſeſſed thereof until the ſaid Richard afterwards, that is to ſay, on the eleventh day of January, in the year of Our Lord 1767, with force and arms entered into the ſeveral tenements, with the appurtenances, reſpectively demiſed to the ſaid John in manner aforeſaid for the ſeveral terms aforeſaid, which are not yet expired, and ejected the ſaid John from his ſeveral farms whereof the ſaid Richard is convicted, as appears to us of record; therefore we command you that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to the ſheriff of the ſame county directed, you command

command the ſame ſheriff that without delay he cauſe the ſaid John to have poſſeſſion of his ſeveral terms aforeſaid yet to come of and in the ſeveral and reſpective tenements aforeſaid, with the appurtenances; and in what manner the ſaid ſheriff ſhall execute this our writ let him certify to you, ſo that you may make the ſame known to us on the morrow of All Souls, whereſoever we ſhall then be in England; and have you there this writ. Witneſs, &c.

A *teſtatum capias ad ſatisfaciendum* from Lancaſter to Yorkſhire, in an action of aſſumpſit.

GEORGE the Third, &c. to the ſheriff of Yorkſhire, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaſter, that by our writ under the ſeal of our ſaid county palatine duly to be made out and to be directed to the ſheriff of our ſaid county palatine he ſhould command our ſaid ſheriff that he ſhould take C. D. if he might be found in his bailiwick, and ſafely keep him ſo that he might have his body before us at Weſtminſter at a certain day now paſt, to ſatisfy A. B. of one hundred pounds which the ſaid A. B. lately in our court before us at Weſtminſter recovered againſt the ſaid C. D. for his damages which he ſuſtained as well by means of not performing certain promiſes and undertakings lately made by the ſaid C. D. to the ſaid A. B. as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid C. D. is convicted, as appears to us of record, and our ſaid chancellor of our ſaid county palatine at that day returned to us that the ſaid ſheriff, in anſwer to the ſaid writ to him directed, had returned that the ſaid C. D. was not found in his bailiwick; whereupon on behalf of the ſaid A. B. it is ſufficiently atteſted in our court before us that the ſaid C. D. doth ſecrete himſelf in your county; therefore we command you that you take the ſaid C. D. if he may be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after , to ſatisfy the ſaid A. B. of his damages aforeſaid; and have you there this writ. Witneſs, &c.

Fieri facias in caſe upon a non-ſuit, in C. B.

GEORGE the Third, &c. to the ſheriff of Middleſex, greeting: We command you that you cauſe to be made of the goods and chattels of William Moore, in your bailiwick, nineteen pounds ten ſhillings, which were adjudged to Hugh Bull in our court before our juſtices at Weſtminſter, by the direction of our ſaid juſtices, for the coſts and charges which he ſuſtained by reaſon of his defence in a certain plea of treſpaſs upon the caſe in the ſame court by the aforeſaid William Moore againſt the ſaid Hugh Bull, according to the form of the ſtatute in ſuch caſe made and provided, whereof the ſaid William Moore is convicted, as appears to us of record; and have you that money before our juſtices at Weſtminſter from , to render to the aforeſaid Hugh Bull for his damages aforeſaid, whereof the ſaid William is committed; and have you there this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the day of in the year of our reign.

THIS

Directions for the ſuing out proceedings in, and returning a writ of *ad quod damnum* for a way.

[THIS writ is in order for a grant in an old way, and to make a new one inſtead thereof, and obſerve the method of ſuing it out: draw the *fiat* of the writ, copy it upon double ſix-penny ſtamp paper, draw an affidavit and engroſs it, &c. purporting that the way intended to be made by will, as he verily believes, be as good for paſſengers and travellers, carts and carriages, as the preſent way intended to be incloſed now is; carry both the affidavit and *fiat* to the attorney or ſolicitor general, who keeps the affidavit and ſigns the *fiat*, which muſt be carried to the curſitor, who makes out the writ of *ad quod damnum*, which is executed by carrying it to the ſheriff, who impannels a jury, makes a return, and the inquiſition is carried to the quarter ſeſſions for the county, and returned by the clerk of the peace; then file the writ, and return at the petty bag office in the Rolls, from whence you have a copy of both the writ with the return and affidavit, both which come to ſeventeen ſhillings and fourpence; the copy carry to the attorney general, he gives it to the privy council, who order a grant to be made.]

Mittimus into the city of Cheſter.

GEORGE the Third, &c. to our chamberlain of our county palatine of Cheſter, or to his deputy there, greeting: The tenor of a certain record which is depending in our court before us, between John Raughley, plaintiff, and Mary Martin, defendant, of a plea of treſpaſs upon the caſe we ſend you encloſed in theſe preſents, commanding you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, you cauſe the ſaid record to be ſent to the mayor of the ſaid city of Cheſter, commanding the ſaid mayor, that for trying the iſſues in the ſaid record ſpecified, the ſaid mayor do command the ſheriffs of the ſame county of Cheſter, and county of the ſame city, that they cauſe to come before the ſaid mayor at a certain day and place by the ſaid mayor to be appointed; after the ſaid record ſhall be delivered to him, twelve free and lawful men of the body of the county aforeſaid, and county of the ſame city, each of whom having ten pounds a year at the leaſt of lands, tenements, or rents, by whom the truth of the matter in queſtion may the better be known and inquired into, and who are in no wiſe of kin, either of the ſaid John, or to the ſaid Mary, to recognize and make a certain jury of the county between the ſaid parties in the plea aforeſaid; becauſe as well the ſaid John as the ſaid Mary, between whom the variance is, have put themſelves upon that jury; and laſtly, that the mayor make ſuch further proceſs againſt the ſaid jurors to be impannelled between the ſaid parties, as according to the law and cuſtom of the ſaid city and county of the ſame city in this behalf are uſed and commonly made until the iſſues aforeſaid, between the parties aforeſaid, ſhall be fully tried, and when the verification and iſſues aforeſaid ſhall have been there made and tried, then the ſaid mayor ſhall ſend to you the ſaid record of the plaint aforeſaid, with every thing that ſhall then and there be done and tried before him therein,

ſo

ſo that you have the ſaid record before us at Weſtminſter, and this writ at a certain day which the ſaid mayor ſhall appoint to the ſaid parties to be in our ſaid court here to hear judgment, &c. Witneſs, &c.

Form of a præcipe for a recovery, with a double voucher.

OXFORDSHIRE, to wit. Command J. B. gentleman, that juſtly and without delay he render unto R. S. eſquire, three meſſuages, one loft, one dove-houſe, &c. and common of paſture for all manner of cattle, with the appurtenances, in Melcomb and Blexham, which he claimeth at bar. GLOVER.

After you have paſſed the precipe at bar, then beſpeak your writ of entry with the curſitor, then draw the recovery in the following manner.

Record of a recovery ſuffered.

Enter return on the morrow of the Aſcenſion of Our Lord.

OXFORDSHIRE to wit. R. S. eſquire, in his proper perſon, demandeth againſt J. B. gentleman, three meſſuages, one loft, one dove-houſe, &c. and common of paſture for all manner of cattle, with the appurtenances, in Melcomb and Blexham, as his right and inheritance, and into which the ſaid J. hath not entry but after the diſſeiſin, which H. Hunt unjuſtly and without judgment hath made to the ſaid R. within thirty years, &c.; and whereupon he ſaith, that he was ſeiſed in his demeſne as of fee and right in time of peace, in time of our lord the king that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof he bringeth ſuit, &c. And the ſaid P. in his proper perſon, comes and defends his right when, &c. and thereupon vouches to warranty R. P. and E. his wife, who are preſent here in court in their perſons, and freely warrant the tenements and common aforeſaid, with the appurtenances, to the ſaid J. &c. and hereupon the ſaid R. demandeth of the ſaid R. P. and E. tenants by their own warranty, the tenements and common aforeſaid, with the appurtenances, in manner aforeſaid, &c. and whereupon he ſaith, that he was ſeiſed of the tenements and common aforeſaid, with the appurtenances, in his demeſne as of fee and right in time of peace, in the time of our lord the king that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof he bringeth ſuit, &c. And the ſaid Edmund, tenant by his own warranty, defendeth his right when, &c. and ſaith, that the ſaid Hugh did not diſſeiſe the ſaid R. of the tenements and common aforeſaid, with the appurtenances, as the ſaid R. by his writ and declaration above doth ſuppoſe; and of this he puts himſelf upon the country: And hereupon the ſaid R. craveth leave to imparl, and he hath it, &c.; and afterwards the ſaid R. cometh again here into court this ſame term in his proper perſon, and the ſaid Edmund, though ſolemnly called, cometh not again, but departeth in contempt of the court, and maketh default; therefore

therefore it is conſidered that the ſaid R. recovereth his ſeiſin againſt the ſaid J. of the tenements and common aforeſaid, with the appurtenances; and that the ſaid J. have of the lands of the ſaid R. P. and E. to the value, &c.; and moreover, that the ſaid R. P. and E. have of the lands of the ſaid Edmund to the value, &c. and that the ſaid Edmund in mercy, &c.; and whereupon the ſaid R. prays the king's writ to be directed to the ſheriff of the county aforeſaid, to cauſe full ſeiſin of the tenements and common aforeſaid, with the appurtenances, to be delivered to him, and it is granted to him returnable here in eight days of the Holy Trinity, &c. at which day the ſaid E. cometh here into court in his proper perſon, and the ſheriff, viz. M. M. eſquire, now returneth, that by virtue of the ſaid writ to him directed on the fourth day of June inſtant, he cauſed full ſeiſin of the tenements and common aforeſaid, with the appurtenances, to be delivered to the ſaid R. as by the ſaid writ he was commanded.

The exemplification thereof.

GEORGE the Third, &c. To all to whom theſe preſents ſhall come, greeting: Know ye that among the pleas of land enrolled at Weſtminſter, before ſir John Eardley Wilmot, knight, and his brethren juſtices of our ſaid lord the king of the bench in the term of Eaſter, in the year of our reign, on the 398th Roll, it is thus contained: [Enter the returns on the morrow of the Aſcenſion of Our Lord.] Oxfordſhire to wit, R. S. eſquire, demandeth againſt J. B. gentleman, three meſſuages, &c. [Here recite the above recovery *verbatim*], and it is granted to him returnable here in eight days of the Holy Trinity, &c. all and ſingular which premiſes at the requeſt of the ſaid R. by the tenor of theſe preſents we have commanded to be exemplified, in teſtimony whereof we cauſed our ſeal appointed for ſealing writs in the bench aforeſaid to be fixed to theſe preſents. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the firſt day of June, in the ſeventh year of our reign.

COOKE.

On label.

On which day the ſaid R. cometh here into court in his proper perſon, and the ſheriff, viz. M. M. eſquire, now returneth, that by virtue of the ſaid writ to him directed on the fourth day of June inſtant, he cauſed full ſeiſin of the tenements and common aforeſaid, with the appurtenances, to be delivered to the ſaid R. as by the ſaid writ he was commanded.

Writ of ſeiſin.

George the Third, &c. to the ſheriff of Oxfordſhire, greeting; Know you that R. S. in our court before our juſtices at Weſtminſter, hath recovered his ſeiſin againſt J. B. gentleman, of three meſſuages, one loft, one dove-houſe, &c. and common of paſture for all manner of cattle, with the appurtenances, in Melcomb and Blexham, by our writ of entry upon diſſeiſin in ; therefore we command you, that without delay you cauſe the ſaid R. to

R. to have the full ſeiſin of the tenements and common aforeſaid, with the appurtenances, and in what manner you ſhall have executed this precept do you make appear before our juſtices at Weſtminſter in eight days of the Holy Trinity, and have you there then this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the firſt day of June in the ſeventh year of our reign.

BORRETT.

A ſubpœna ticket on an inquiry.

By virtue of a writ of ſubpœna to you directed and herewith ſhewn unto you, you are to be and perſonally appear before the ſheriffs of the city of London on Wedneſday the twenty-eighth day of May, at nine of the clock in the forenoon of the ſame day, at the Guildhall of the ſaid city, to teſtify the truth according to your knowledge in a certain cauſe now depending between John Subon, plaintiff, and Samuel Row, defendant, in a plea of treſpaſs upon the caſe on the part of the plaintiff, in which cauſe a writ of inquiry of damages will then and there be executed; and this you are not to omit upon pain of one hundred pounds. Dated the day of in the year of our ſovereign lord George the Third, &c.

Attachment againſt defendant for non-payment of coſts how obtained.

[There was a rule for defendant's paying plaintiff eleven pounds for her debt and coſts to be taxed. The eleven pounds was paid into court and plaintiff took it out, and then plaintiff got the coſts taxed by prothonotary at thirteen pounds twelve ſhillings: then the plaintiff executed the following letter of attorney.]

Power of attorney.

MILLS *againſt* PRICE, ONE, &c. } WHEREAS by a rule of his majeſty's court of common pleas at Weſtminſter, bearing date the firſt day of this preſent month of May, in a cauſe then and there depending between Sarah Mills, widow, plaintiff, and Hugh Price, gentleman, one of the attornies of that court, defendant; it is ordered, that the defendant ſhall pay to plaintiff or her attorney eleven pounds, together with coſts to be taxed by Mr. Prothonotary Jones, if the plaintiff will accept thereof, but if the plaintiff will not accept thereof, the defendant ſhall immediately bring the ſaid eleven pounds into this court and plead the general iſſue, and if upon the trial of the iſſue between the ſaid parties the plaintiff ſhall become nonſuit and the jury ſhall not aſſeſs damages to the plaintiff exceeding the ſaid eleven pounds, then the plaintiff ſhall have no coſts but ſhall pay to the defendant or his agent coſts to be taxed by the ſaid prothonotary, which coſts ſhall be paid out of the money ſo brought into court, if ſufficient for that purpoſe, and the reſidue, if any, ſhall be paid to the plaintiff; but if the money ſo brought here into court be not ſufficient to pay the ſaid coſts, the deficiencies ſhall be made good by the plaintiff; but if upon trial of the iſſue the jury

jury ſhall aſſeſs damages to plaintiff exceeding the ſaid eleven pounds, then judgment ſhall be entered for the plaintiff upon the verdict with coſts; and the ſaid plaintiff ſhall have the ſaid eleven pounds out of court towards ſatisfaction of ſuch damages, and may take out execution for the reſidue: And whereas afterwards, the ſaid eleven pounds mentioned in the ſaid rule or order were paid to and accepted by the ſaid plaintiff, and on the twenty-firſt day of the ſame month of May the ſaid plaintiffs coſts in the ſaid action were taxed and allowed by the ſaid prothonotary at the ſum of thirteen pounds twelve ſhillings: Now theſe preſents witneſs that the ſaid Sarah Mills doth hereby make, conſtitute, authorize, and appoint John Varley of, &c. to be her true and lawful attorney for her, and in her name to aſk, demand, recover, and receive of the ſaid H. P. the ſaid ſum of thirteen pounds twelve ſhillings, and on receipt thereof, in the name of the ſaid Sarah Mills, or of him the ſaid John Varley, to give, ſeal, and execute any ſuch releaſes, acquittances, or other diſcharges as he the ſaid John Varley ſhall think proper, and generally to do and execute all ſuch acts, matters, and things, as well for receiving as for releaſing the ſaid coſts, as ſhall be proper, requiſite, or neceſſary: And ſhe the ſaid Sarah Mills doth hereby ratify and confirm all and whatſoever her ſaid attorney ſhall lawfully do or cauſe to be done by virtue of theſe preſents. In witneſs, &c.

Præcite quod reddat in debt.

GEORGE the Third, to the ſheriff of Middleſex, greeting: We command you that you take William Berrell and Thomas Green, late of Charlotte-ſtreet in Saint James, if they ſhall be found in your bailiwick, and them ſafely keep ſo that you may have their bodies before us on the morrow of All Souls, whereſoever we ſhall be in England, to anſwer to Thomas Rawſtone in one hundred pounds which he owes and unjuſtly detains as it is ſaid; and have there this writ. Witneſs William lord Mansfield, at Weſtminſter, the twenty-ſecond day of June, in the eighth year of our reign. ADAMS.

Teſt. præcipe quod reddat in debt by original into Cornwall.

GEORGE the Third, &c. to the ſheriff of Cornwall, greeting: We command you, that you take John Weſton, of Fregamble in your county, gentleman, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have him before us on the morrow of All Souls, whereſoever we ſhall then be in England, to anſwer Peter Tubors in a plea that he render to the ſaid Peter two hundred and eighty-five pounds, which he owes to and unjuſtly detains as it is ſaid, and for that our ſheriff of Middleſex returned to us at a certain day now paſt that the ſaid John is not found in his bailiwick, whereupon on the behalf of the ſaid Peter it is ſufficiently atteſted in our court before us, that the ſaid John does run up and down and ſecrete himſelf in your county, and have there this writ. Witneſs William lord Mansfield at

Weſtminſter, the twenty-ſecond day of June, in the eighth year of our reign. ADAMS.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas A. B. lately in our court before us at Weſtminſter, by bill without our writ impleaded, C. D. gentleman, being in the cuſtody of E. T. eſquire, ſheriff of our ſaid county palatine of Lancaſter: For that whereas, &c. [Here recite declaration, and conclude as in writs of enquiry.]

Writ of inquiry into county palatine againſt a priſoner.

GEORGE the Third, &c. to the ſheriff of Hertfordſhire, greeting: Put under ſureties and ſafe pledges Frederick Halſey, that he be before our juſtices at Weſtminſter, from the day of Eaſter in fifteen days, to anſwer James Bedford of a plea, wherefore he took the goods and chattels of the ſaid James Bedford, and unjuſtly detained them againſt ſureties and pledges as it is ſaid; and to ſhew wherefore he hath not appeared in our court before our juſtices at Weſtminſter, in days of laſt paſt, that being the day prefixed to them; and have you there the names of the pledges and this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the day of in the year of our reign. BOYCUTT.

A *pone* in replevin in C. P.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he take C. D. if he be found in his bailiwick, and ſafely keep him ſo that you may have his body before us at Weſtminſter, on next after to ſatisfy unto A. B. of two thouſand pounds of debt which the ſaid A. B. lately in our court before us recovered againſt him; and alſo ſixty-three ſhillings which were adjudged to the ſaid A. B. in our ſaid court before us for his damages which he ſuſtained as well by means of detaining the ſaid debt as for his coſts and charges by him about his ſuit in that behalf expended; whereof the ſaid C. D. was convicted, as appears to us of record; and have you there, &c.

Capias ad ſatisfaciendum into a county palatine in debt.

GEORGE the Third, &c. to the ſheriff of Cornwall, greeting: Whereas Moſes Yates, &c. of in your county, labourer, was attached to appear in our court before our juſtices at Weſtminſter, to anſwer Lee Warner, eſquire, in a plea wherefore the ſaid Moſes on the firſt day of in the year of Our Lord 1762, and on divers other days and times between that day and

Writ of inquiry in treſpaſs in C. B.

and the day of , in the year of Our Lord 1763, with force and arms, &c. at aforeſaid. [And ſo on to the end of the declaration and other writs of enquiry.]

Capias ad ſatisfaciendum into a county palatine in debt.

GEORGE the Third, to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he take C. D. late of in the ſaid county palatine of Lancaſter, yeoman, if he ſhall be found in his bailiwick, and him ſafely keep ſo that you may have his body before our juſtices at Weſtminſter, from the day of in days, to ſatisfy A. B. as well of a certain debt of one hundred pounds, which the ſaid A. B. in our court before our juſtices at Weſtminſter recovered againſt him as of pounds which to the ſaid A. B. in our ſaid court were adjudged for his damages which he had ſuſtained on account of the detaining that debt whereof he is convicted; and thereupon our ſheriff of hath certified to our juſtices at Weſtminſter at a certain day now paſt that the ſaid C. D. is not found in his bailiwick; whereupon it is witneſſed in our ſaid court that the ſaid C. D. lurks, lies hid, and wanders in the ſaid county palatine; and have you there this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the day of in the year of our reign. DORRETT.

Capias ad ſatisfaciendum in debt.

GEORGE the Third, &c. to the ſheriff of , greeting: We command you, that you take C. D. if he may be found in your bailiwick, and keep him ſafely ſo that you may have his body before us at Weſtminſter on next after , to ſatisfy A. B. of two hundred pounds of debt which the ſaid A. B. lately in our court before us recovered againſt him, as alſo ſeventy three pounds which were adjudged to the ſaid A. B. in our ſaid court before us for his damages which he ſuſtained as well by means of detaining the ſaid debt, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid C. D. is convicted, as appears to us of record; and have you then there this writ. Witneſs, &c.

Capias ad ſatisfaciendum in caſe into a county palatine in B R.

GEORGE the Third, &c. to our chancellor of our county palatine, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſame county, [If into the city of Cheſter, ſay, "to be directed to the ſheriffs of the city of Cheſter,] you command the ſame ſheriff that he take C. D. if he may be found in his bailiwick, and keep him ſo that he may have his body before us at Weſtminſter on next after to ſatisfy A. B. of which the ſaid A. B. lately in

in our court before us at Weſtminſter recovered againſt the ſaid C. D. for his damages which he ſuſtained, as well by occaſion of the not performing certain promiſes and undertakings lately made by the ſaid C. D. to the ſaid A. B. as for the coſts and charges of him the ſaid A. B. by him about his ſuit in that behalf expended; whereof the ſaid C. D. is convicted, as appears to us of record; and have you there then this writ. Witneſs, &c.

GEORGE the Third, &c. to the ſheriff of greeting: Whereas we lately commanded you that you ſhould cauſe to be levied of the goods and chattels in your bailiwick of C. D. late of in your county, yeoman, pounds which in our court before our juſtices at Weſtminſter were awarded to A. B. for his damages which he ſuſtained by reaſon of the not performing certain promiſes and undertakings made by the ſaid C. D. to the aforeſaid A. B. at in your county, yeoman, and you ſhould have that money before our juſtices at Weſtminſter on now laſt paſt, to render to the ſaid A. B. for the damages whereof the ſaid C. D. was convicted: And whereas at that day you returned to our ſaid juſtices at Weſtminſter, that by virtue of the ſaid writ you had levied of the goods and chattels of the ſaid C. D. the value of pounds, and that you had the ſame money before our ſaid juſtices at the ſaid day and place ready to render to the ſaid A. B. in part of his ſaid damages, and that the ſaid C. D. had no other or more goods and chattels in your bailiwick whereof then you might levy the reſidue of the aforeſaid damages according to the exigency of the ſaid writ; therefore we command you, that you take the ſaid C. D. if he may be found in your bailiwick, and ſafely keep him ſo that you may have his body before our juſtices at Weſtminſter from the of in days, to ſatisfy the ſaid A. B. of pounds, the reſidue of the damages aforeſaid, and that you have there then this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, &c.

Copias ad ſatisfaciendum upon a *fieri facias* after levy of part of the damages in aſſumpſit for the reſidue.

GEORGE the Third, &c. to the ſheriffs of London, greeting: Whereas we lately commanded our ſheriff of Middleſex, that he ſhould take C. D. if he might be found in his bailiwick, and ſafely keep him ſo that he might have his body before us at Weſtminſter at a certain day now paſt, to ſatisfy A. B. of one hundred pounds which the ſaid A. B. lately in our court before us at Weſtminſter recovered againſt the ſaid C. D. for his damages which he ſuſtained, as well by means of the not performing certain promiſes and undertakings made by the ſaid C. D. to the aforeſaid A. B. as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid C. D. is convicted, as appears to us of record; and our ſheriff of Middleſex at that day returned to us, that the ſaid C. D. was not found in his bailiwick,

Teſtatum capias ad ſatisfaciendum in aſſumpſit in B. R.

whereupon on the behalf of the ſaid A. B. it is ſufficiently atteſted in our ſaid court before us, that the ſaid C. D. doth lurk and ſecrete himſelf in your bailiwick; we therefore command you, that you take him if he may be found in your bailiwick, and keep him ſafe ſo that you may have his body before us at Weſtminſter on next after to ſatisfy the ſaid A. B. of the damages aforeſaid; and have there then this writ. Witneſs, &c.

LEE.

Teſtatum capias ad ſatisfaciendum on original in debt in B. R.

GEORGE the Third, &c. to the ſheriff of Yorkſhire, greeting: Whereas we lately commanded our ſheriffs of London that they ſhould take C. D. late of in your county, grocer, if he might be found in his bailiwick, and ſafely keep him ſo that they might have his body before us whereſoever we ſhould then be in England at a certain day now paſt, to ſatisfy A. B. eſquire, of one hundred pounds of debt which the ſaid A. B. lately in our court before us at Weſtminſter recovered againſt him, as alſo twenty-eight pounds which were adjudged to the ſaid A. B. in our ſaid court before us, as well by means of the detaining the ſaid debt as for his coſts and charges by him about his ſuit in that behalf expended, whereof C. D. is convicted, as appears to us of record; and our ſaid ſheriffs of London at that day returned to us, that the ſaid C. D. was not found in their bailiwick; whereupon on the behalf of the ſaid A. B. it was ſufficiently atteſted in our court before us that the ſaid C. D. doth lurk and ſecrete himſelf in your county; therefore we command you, that you take him if he may be found in your bailiwick, and keep him ſafe ſo that you may have his body before us on next after whereſoever we ſhall then be in England, to ſatisfy the ſaid A. B. of the debt and damages aforeſaid, and have you there this writ. Witneſs William lord Mansfield. L. and A.

Fieri facias in debt in B. R.

GEORGE the Third, &c. to the ſheriff of Kent, greeting; We command you, that of the goods and chattels of C. D. in your bailiwick, you cauſe to be made pounds which A. B. lately in our court before us at Weſtminſter recovered againſt him of debt, and alſo ſixty-three ſhillings which to the ſaid A. B. in our court before us were adjudged for his damages which he ſuſtained, as well on occaſion of detaining that debt as for his coſts and charges by him about his ſuit in that behalf laid out, whereof the ſaid C. D. is convicted, as appears to us of record; and that you have that money before us at Weſtminſter on next after to render to the ſaid A. B. for his debt and damages, and have you then there this writ. Witneſs William lord Mansfield at Weſtminſter, the day of in the year of our reign.

LEE and ANTONIE.

GEORGE

Teſtatum fieri facias into a county palatine in debt.

GEORGE the Third, &c. to our chancellor of our city palatine of Lancaſter, or to his deputy there, greeting: We command you, that by your writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he cauſe to be made of the goods and chattels in his bailiwick of C. D. late of in the ſaid county palatine of Lancaſter, collier, as well a certain debt of one hundred pounds which A. B. gentleman, in our court before our juſtices at Weſtminſter hath recovered againſt him, as alſo thirty-ſix pounds which to the ſaid A. B. in our ſame court were awarded for his damages which he ſuſtained, as well by means of detaining the ſaid debt as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid C. D. is convicted, as appears to us of record; and that he have the money before our juſtices at Weſtminſter on to render to the ſaid A. B. for the debt and damages aforeſaid; and whereupon our ſheriffs of London have certified to our juſtices at Weſtminſter at a certain day now paſt, that the ſaid C. D. hath no goods or chattels in their bailiwick, whereof they can cauſe to be made the debt and damages aforeſaid, or any part thereof; whereas it is teſtified in our ſaid court that the ſaid C. B. hath ſufficient goods and chattels in our ſaid county palatine, whereof the debt and damages may be levied; and have there then this writ. Witneſs, &c. DICKINS.

Teſtatum fieri facias upon original in debt.

GEORGE the Third, &c. to the ſheriff of greeting: Whereas we lately commanded our ſheriffs of London, that of the goods and chattels in your bailiwick, of C. D. of in your county, grocer, they ſhould cauſe to be made one hundred pounds, which A. B. eſquire, lately in our court before us at Weſtminſter recovered againſt him for debt, and alſo twenty-eight pounds which he the ſaid A. B. lately in our ſaid court before us were adjudged for his damages which he had ſuſtained, as well by reaſon of the detaining the ſaid debt, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid C. D. is convicted, as appears to us of record; and that they ſhould have that money before us whereſoever we ſhould then be in England at a certain day now paſt, to render to the ſaid A. B. for his debt and damages aforeſaid, and our ſaid ſheriffs of London at that day returned to us, that the ſaid C. D. had no goods or chattels in their bailiwick whereof they could cauſe to be made that money; whereupon on the behalf of the ſaid A. B. it is ſufficiently atteſted in our court before us that the ſaid C. D. hath goods and chattels ſufficient in their bailiwick whereof you may cauſe to be made the ſame money; therefore we command you, that of the goods and chattels of the ſaid C. D. in your bailiwick you cauſe to be made the ſaid one hundred pounds of debt, and twenty-eight pounds the damages aforeſaid, and have that money before us on whereſoever we ſhall then be in England,

to render to the ſaid A. B. for his debt and damages aforeſaid and have you there this writ. Witneſs William lord Mansfield at Weſtminſter. L. and A.

Elegit in debt. GEORGE the Third, &c. to the ſheriff of York, greeting: Whereas A. B. lately in our court before us at Weſtminſter, by bill without our writ, and by the judgment of the ſame court, recovered againſt C. D. one hundred pounds of debt, and alſo forty pounds for his damages which he ſuſtained, as well by means of detaining the ſaid debt, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid C. D. was convicted, as appears to us of record; and afterwards the ſaid A. B. came into court before us, and choſe all the goods and chattels of the ſaid C. D. except the oxen and beaſts of his plough, and alſo a moiety of all and ſingular the lands and tenements of the ſaid C. D. in your bailiwick, to be delivered to him according to the form of the ſtatute in that caſe made and provided, until the ſaid debt and damages ſhould be thereupon fully levied; we therefore command you, that all the goods and chattels of the ſaid C. D. in your bailiwick, except the oxen and beaſt of his plough, and alſo a moiety of lands and tenements of the ſaid C. D. in your bailiwick, whereof the ſaid C. D. on the day of on which day the ſaid judgment was given, or ever after was ſeiſed, you cauſe to be delivered without delay to the ſaid A. B. by a reaſonable price and extent to hold the ſaid goods and chattels as his proper goods and chattels, and alſo to hold the moiety of the ſaid lands and tenements as his free tenements to him and his aſſigns, according to the term of the ſaid ſtatute, until the debt and damages aforeſaid ſhall thereof be fully levied, and that you make appear to us at Weſtminſter on next after under the ſeal and the ſeals of thoſe by whoſe oath you ſhall make the ſaid extent and appraiſement in what manner you ſhall have executed this our writ; and that you have then there this writ. Witneſs, &c.

A teſtatum fieri facias into a county palatine in dower in C. B. GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſaid county, you command the ſame ſheriff that he cauſe to be levied of the goods and chattels of C. D. pounds, which to A. B. widow, who was the wife of E. B. in our court before our juſtices at Weſtminſter were adjudged for her damages which ſhe ſuſtained, as well on account of the detention of her dower, as for her coſts and charges by her about her ſuit in that behalf laid out; and that he have that money before our juſtices at Weſtminſter on to render to the ſaid A. B. for her damages, coſts, and charges aforeſaid, whereupon the ſaid C. D. is convicted, as appears to us of record; and whereupon our ſheriff

tiff of Yorkſhire hath certified to our juſtices at Weſtminſter at a certain day now paſt, that the ſaid C. D. hath no goods and chattels in his bailiwick whereof he can cauſe to be levied the damages, coſts, and charges aforeſaid, or any part thereof; whereas it is teſtified in our ſaid court that the ſaid C. D. hath ſufficient goods and chattels in our ſaid county palatine whereof the damages, coſts, and charges aforeſaid may be levied; and have you there this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the day of in the year of our reign.

DORRETT.

Writ of poſſeſſion in an action of ejectment in C. B.

GEORGE the Third, &c. to the ſheriff of York, greeting: Whereas A. B. lately in our court before our juſtices at Weſtminſter, by the courſe of the ſame court recovered his term yet to come of and in two meſſuages, &c. [Here recite the parcels as in the declaration,] with the appurtenances, in in your county, againſt C. D. late of in your county, huſbandman, which E. T. the day of in the year of our reign had demiſed to the ſaid A. B. to have and to hold the ſaid tenements, with the appurtenances, to him and his aſſigns, from the day of then laſt paſt, until the full end and term of years from thenceforth next enſuing, and fully to be complete and ended, which is not yet expired; whereupon the ſaid C. D. him the ſaid A. B. from his poſſeſſion thereof hath expelled and removed, and the ſame A. B. from his farm aforeſaid hath ejected; therefore we command you, that without delay you cauſe the ſaid A. B. to have his poſſeſſion of his farm aforeſaid yet to come of and in his ſaid tenements aforeſaid, with the appurtenances, and in what manner you ſhall have executed this our writ, do you make appear to our juſtices at Weſtminſter, from the day of in days; and have you then there this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the day of in the year of our reign.

BORRETT.

Writ of poſſeſſion into a county palatine in an action of ejectment in B. R.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas A. B. lately in our court before us at Weſtminſter, by bill without our writ, and by the judgment of the ſame court, recovered againſt C. D. his term yet to come of and in the meſſuages, [Here inſert the parcels in the declaration] with the appurtenances, ſituate, lying, and being in in the ſaid county of Lancaſter, which E. F. on the day of in the year of our reign demiſed to the ſaid A. B. for a term of years not yet expired, to wit, from the day of then laſt paſt, to the full end and term of years from thence next enſuing, and fully to be complete and ended; by virtue of which ſaid demiſe the ſaid A. B. entered upon the ſame tenements,

with the appurtenances, and was poſſeſſed thereof until the ſaid C. D. afterwards, to wit, on the ſame day of in the year aforeſaid, with force and arms entered upon the ſaid tenements, with the appurtenances, in and upon the poſſeſſion of him the ſaid A. B. and ejected, drove out, and amoved the ſaid A. B. from his ſaid farm, his ſaid term therein being not yet expired; and him the ſaid A. B. ſo ejected, driven out, and removed, hath kept out, and doth yet keep out from his poſſeſſion thereof, whereof the ſaid C. D. is convicted, as appears to us of record; therefore we command you, that by our writ under the ſeal of the ſaid county palatine, to be duly made out, and to the ſheriff of the ſame county directed, you command, that without delay he cauſe the ſaid A. B. to have his poſſeſſion of his term aforeſaid yet to come of and in the tenements aforeſaid, with the appurtenances, and in what manner the ſaid ſheriff ſhall execute our ſaid writ let him certify to you, ſo that you may make the ſame known to us at Weſtminſter on next after and have you there then this writ. Witneſs William lord Mansfield at Weſtminſter the day of in the year of our reign.

LEE.

Attornment and ſurrender of premiſes on a writ of poſſeſſion in ejectment.

I. G. H. tenant in poſſeſſion of all the premiſes contained in the within writ, do hereby ſurrender, yield, and deliver up unto the within-named E. F. the leſſor of the plaintiff within mentioned, full and abſolute poſſeſſion of the ſeveral lands, tenements, and hereditaments within mentioned, to the intent that he may hold, enjoy, and diſpoſe thereof as fully and reſpectively to all intents and purpoſes, as if the ſheriff within named had delivered the poſſeſſion thereof to him in his own proper perſon. Witneſs my hand the day of Witneſſes.

Writ of poſſeſſion in an action of ejectment on a double demiſe in C. B.

GEORGE the Third, &c. to the ſheriff of greeting: Whereas A. B. lately in our court before our juſtices at Weſtminſter, by the conſideration of the ſame court, recovered his term yet to come of and in one water corn mill, one drying kiln, with the appurtenances, in your county againſt C. D. late of in your county, huſbandman, which E. F. on the day of then laſt paſt, unto the full end and term of years from thence next enſuing, and fully to be complete and ended, and alſo recovered againſt the ſaid C. D. one other, &c. [as the parcels are in declaration] with the appurtenances in aforeſaid, which G. H. on the ſaid day of in the ſaid year of our reign, at aforeſaid, had demiſed to the ſaid A. to hold the ſaid tenements laſt mentioned, with the appurtenances, to the ſaid A. B. and his aſſigns, from the ſaid day of then laſt paſt, until the full end and term of years from thence next enſuing, and fully to be complete and ended; and whereupon the ſaid C. D. the ſaid A. B.

A. B. from his poſſeſſion thereof did expel and remove, and the ſame A. B. from his farms aforeſaid did eject; therefore we command you, that without delay you cauſe the ſaid A. B. to have his poſſeſſion of his ſeveral terms aforeſaid yet to come of and in the ſeveral and reſpective tenements aforeſaid, with the appurtenances, and in what manner you ſhall execute this our writ do you make appear to our juſtices at Weſtminſter, from the day of in days; and have there then this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, &c.

DICKINS.

GEORGE the Third, &c. to the ſheriff of greeting: Whereas A. B. lately in our court before us at Weſtminſter, by bill without our writ, and by the judgment of the ſame court, recovered againſt C. D. his term yet to come of and in, &c. with the appurtenances, ſituate, lying, and being in in your county, which the ſaid E. F. on the day of in the year of our reign demiſed to the ſaid A. B. for a term of years not yet expired, to wit, from the day of then laſt paſt, to the full end and term of years from thence next enſuing, and fully to be complete and ended; by virtue of which demiſe the ſaid A. B. entered upon the ſame tenements, with the appurtenances, and was thereof poſſeſſed until the ſaid C. D. afterwards, to wit, on the ſame day of in the year aforeſaid, with force and arms, entered into the ſaid tenements, with the appurtenances, in and upon the poſſeſſion of him the ſaid A. B. and ejected, drove out, and amoved him the ſaid A. B. from his ſaid farm, his ſaid term being not yet expired, and him the ſaid A. B. ſo ejected, driven out, and removed, hath kept out, and doth yet keep out from his poſſeſſion thereof, whereof the ſaid C. D. is convicted, as appears to us of record; therefore we command you, that without delay you cauſe the ſaid A. B. to have his poſſeſſion of his term aforeſaid yet to come of and in the tenements aforeſaid, with the appurtenances, and in what manner you ſhall execute this our writ do you make appear to us at Weſtminſter, on next after and have you then there this writ. Witneſs William lord Mansfield at Weſtminſter the day of in the year of our reign.

LEE.

Writ of poſſeſſion in B. R. in an action of ejectment.

GEORGE the Third, &c. to the ſheriff of Eſſex, greeting: Whereas we lately commanded our ſheriff of Wilts, that he ſhould cauſe to be made of the goods and chattels of Richard Cox in his bailiwick twenty pounds, which Richard Wraxell lately in our court before us at Weſtminſter recovered againſt him for his damages which he hath ſuſtained, as well by occaſion of the not performing of certain promiſes and aſſumptions by him the ſaid Richard Cox, to the ſaid Richard Wraxell, as for his coſts and charges laid out by him about his ſuit in that behalf expended,

Teſtatum fieri facias in K. B.

whereof the ſaid R. C. is convicted, as appears to us of record; and that he ſhould have the money before us at Weſtminſter at a certain day now paſt, to render to the ſaid R. W. for his damages aforeſaid, and our ſaid ſheriff of Wilts at that day returned to us, that the ſaid R. C. had not any goods or chattels in his bailiwick whereof he could cauſe to be made the ſaid monies, whereupon on the behalf of the ſaid R. W. it is ſufficiently teſtified in our court before us, that the ſaid Richard Cox hath goods and chattels ſufficient within your bailiwick where you may cauſe the ſaid monies to be made; therefore we command you, that of the goods and chattels of the ſaid Richard Cox in your bailiwick you cauſe to be made the ſaid twenty pounds for his damages aforeſaid; and that you have that money in our ſame court before us on next after to render to the aforeſaid Richard Wraxell; and have you there this writ. Witneſs William lord Mansfield.

LEE.

Fieri facias in an action on words.

GEORGE the Third, &c. to the ſheriff of Cornwall, greeting: We command you, that of the goods and chattels of Peter Spargo, late of the pariſh of in your county, you cauſe to be made twenty-ſeven pounds, which to Thomas Lugmore in our court before our juſtices at Weſtminſter were adjudged for his damages which he had by reaſon of the ſpeaking and publiſhing certain ſcandalous words by the ſaid Peter to the ſaid Thomas at Penryn in your county ſuſtained; and have you that money before our juſtices at Weſtminſter, on the to render to the ſaid Thomas for his damages aforeſaid; whereof he the ſaid Peter is convicted; and have you there then this writ. Witneſs ſir John Eardley Wilmot, &c.

Alias capias ad reſpondendum into a county palatine.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, as formerly we have commanded you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he take, &c.

Superſedeas into a county palatine for want of declaring.

GEORGE the Third, &c. to our chancellor, &c. or to his deputy there, greeting: Whereas we lately commanded you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſame county, you ſhould command the ſame ſheriff that he ſhould take C. D. if he might be found in his bailiwick, and ſafely keep him ſo that he might have his body before us at Weſtminſter on next after laſt paſt, to anſwer to A. B. in a plea of treſpaſs; and alſo to a bill of the ſaid A. B. againſt the ſaid C. D. for one hundred and twenty pounds on promiſes, according to cuſtom of our court before

us

us to be exhibited; and becauſe the ſaid A. B. hath not declared againſt him the ſaid C. D. within two terms; and the ſame C. D. in our ſame court before us come and put in common bail to anſwer to the ſaid A. B. of the plea and bill aforeſaid, according to the courſe of our ſame court; therefore we command you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and directed to the ſheriff of the ſame county, you command the ſame ſheriff that he altogether deſiſt from further taking, attacking, impriſoning, and moleſting him the ſaid C. D. on that account, and if on that account, and no other occaſion, he has taken him and does now detain him in priſon, then without delay he cauſe the ſaid C. D. to be diſcharged out of the priſon in which he is ſo detained at his peril. Witneſs William lord Mansfield at Weſtminſter the day of in the year of our reign.

L. and A.

GEORGE the Third, &c. to the ſheriff of greeting: Whereas A. B. late of is detained in our priſon under your cuſtody by virtue of our writ returnable before our juſtices at Weſtminſter in days from to anſwer C. D. of a plea of treſpaſs, and alſo of a plea of treſpaſs on the caſe to the damage of the ſaid C. D. of forty pounds, and on the day of 1764, was charged with a declaration at the ſuit of the ſaid C. D. in the plea aforeſaid; and for that it appeareth to our ſaid juſtices that the ſaid C. D. hath not proceeded to judgment in due time againſt the ſaid A. B. in the ſaid cauſe, according to the rules and orders of our ſaid court, and becauſe the ſaid A. B. hath appeared in our ſaid court by E. P. his attorney in the cauſe aforeſaid; therefore we command you, that if the ſaid A. is detained in our priſon under your cuſtody on that account and no other, then you do permit him to go at large upon the peril which ſhall attend the neglect thereof. Witneſs at Weſtminſter, and ſo forth.

Superſedeas for not proceeding to judgment.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he take A. B. late of in the county palatine of Lancaſter, chapman and Richard Roe, if they ſhall be found in his bailiwick, and them ſafely keep, ſo that he may have their bodies before our juſtices at Weſtminſter, from the day of in to anſwer C. D. of a plea, wherefore with force and arms the cloſe of the ſaid C. D. at they broke and other things then and there did, to the great damage of the ſaid C. D. and againſt our peace; and alſo that the ſaid A. B. may anſwer the ſaid C. D. according to the cuſtom of our court of C. B. in a certain plea of treſpaſs upon the caſe upon promiſes to the damage of the ſaid C. D. of twenty pounds, whereupon

Teſtatum capias into a county palatine.

upon our ſheriff of the county of York hath certified to our juſtices at Weſtminſter, at a certain day now paſt, that the ſaid A. B. and R. R. are not to be found in his bailiwick, whereas it is witneſſed in our ſaid court, that the ſaid A. B. and R. lurk, lye hid, and wander in the ſaid county palatine; and have you there then this writ. Witneſs, &c.

Non omittas latitat.

GEORGE the Third, &c. to the ſheriff of Kent, greeting: We command you, that you do not omit, by reaſon of any liberty within your county, but that you enter the ſame, and take A. B. and Richard Roe, if they ſhall be found in your bailiwick, and keep them ſafe, ſo that you may have their bodies before us at Weſtminſter, on to anſwer C. D. in a plea of treſpaſs; and alſo to a bill, &c. to be exhibited, &c. and that you have there then this writ. Witneſs William lord Mansfield at Weſtminſter, the day of in the year of our reign. LEE.

(*a*) Attachment of contempt againſt an attorney.

GEORGE the Third, &c. to the ſheriffs of York, greeting: We command you, that you attach C. D. gentleman, one of the attornies of our court of the bench, ſo that you may have his body before our juſtices at Weſtminſter, on next after to anſwer us of and upon thoſe things which to him in our behalf ſhall then be objected; and have you there then this writ. Witneſs William lord Mansfield at Weſtminſter, &c. BARRETT.

(*a*) Indorſed for non-payment to A. B. of the ſeveral ſums of and pounds, by rule of court. pounds Signed

Writ of *mittimus* to the county palatine of Lancaſter.

GEORGE the Third, &c. to our juſtices of our county palatine of Lancaſter, greeting: The tenure of a certain record before us at Weſtminſter, between A. B. plaintiff, and C. D. defendant, in a plea of debt, we ſend you incloſed herein, commanding that you (having inſpected the ſame by your writ of our ſaid county palatine, do command the ſheriff of the ſame county, that he cauſe twelve free and lawful men of the body of the ſaid county palatine to come before you at your next ſeſſions there to be holden after this writ ſhall be delivered to you and each of whom to have ten pounds per annum, at the leaſt, of lands, tenements, or rents, by whom the truth of the matter may the better be known and inquired into, and who are in no wiſe related either to the ſaid A. B. or to the ſaid C. D. to recognize and make a certain jury of the county between the ſaid parties in the plea aforeſaid, becauſe as well the ſaid C. D. as the ſaid A. B. between whom the controverſy is, have put themſelves upon that jury; and alſo that you make ſuch further proceſs againſt the ſaid jurors to be impannelled between the ſaid parties as are in this behalf uſed and commonly made, according to the uſe and cuſtom of the ſaid county palatine until

until the iſſue aforeſaid between the ſaid parties ſhall be fully tried; and when the verification and iſſue aforeſaid ſhall be there made and tried before you, then do you ſend the record of the plaint aforeſaid, together with every thing that ſhall then and there be done before you therein; and alſo this writ to us at Weſtminſter at a certain day at which you ſhall appoint to the ſaid parties to be there to hear judgment thereupon, &c. Witneſs William lord Mansfield at Weſtminſter the day of in the year of our reign. LEE.

[If it is a mittimus for a view, when you come at (until the iſſue between the ſaid parties ſhall be fully tried) then add this]:

And that in the writ of *habeas corpora juratorum* to be iſſued by you in this cauſe, there be contained a clauſe commanding the ſheriff of the ſaid county to have ſix or more of the firſt twelve jurors ſo to be impannelled and returned, who ſhall be mutually conſented to by the ſaid A. B. and alſo by the ſaid C. D. or their agent, at the place in queſtion before the time of trial of the ſaid iſſue, to wit, on the day of next enſuing, and that L. M. on the part of the ſaid A. B. and N. O. on the part of the ſaid C. D. ſhall attend the ſame day and ſhew the matters in queſtion to the ſaid ſix or more of the firſt twelve jurors, to be conſented to as aforeſaid; and when the verification and iſſue aforeſaid ſhall be there made and tried, and the damages aforeſaid ſhall be there, then do you ſend the record of the plaint aforeſaid, together with every thing that ſhall be then and there done before thereupon, and alſo this writ to us at Weſtminſter at a certain day which you ſhall appoint to the ſaid parties to be there to hear judgment thereupon. Witneſs, &c. STORMONT and WAY.

Writ of inquiry in an action of aſſumpſit.

GEORGE the Third, &c. to our ſheriff of Cumberland, greeting: [If by original, ſay, whereas A. B. late of W. in your county was attached to anſwer C. D. of a plea, that whereas] Whereas A. B. lately in our court before us at Weſtminſter, by bill without our writ, impleaded C. D. being in the cuſtody of the marſhal of our marſhalſea before us; for that whereas, &c. &c. [Set out all the pleadings] to the damage of the ſaid A. B. of ten pounds, as it was ſaid, and in ſuch manner in our ſame court before us it is proceeded, that the aforeſaid A. B. ought to recover his damages againſt the ſaid C. D. by occaſion [Here inſert declaration] of the [If in treſpaſs, trover, or aſſumpſit, &c. ſay, by occaſion of the premiſes] not performing the ſaid ſeveral promiſes and undertakings aforeſaid, but becauſe it is unknown in our ſaid court before us what damages the ſaid A. B. hath ſuſtained by the occaſion aforeſaid; therefore we command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire what damages the ſaid A. B. hath ſuſtained, as well by means of the [premiſes] not performing the ſeveral promiſes and undertakings aforeſaid,

aforeſaid, as for his coſts and charges by him about his ſuit in that behalf laid out, and make appear to us at Weſtminſter [If by original ſay, to us on the of wheresoever we ſhall then be in England] on next after , and the inquiſition which you ſhall thereupon take under the ſeal and the ſeals of thoſe by whoſe oath you ſhall take ſuch inquiſition; and have you there then this writ. Witneſs, &c. STORMONT and WAY.

Writ of inquiry in an action in aſſumpſit into a county palatine.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or his deputy there, greeting: Whereas A. B. lately in our court before us at Weſtminſter, by bill without our writ impleaded C. D. being in the cuſtody of the marſhal of the marſhalſea before us; for that whereas [So to the end of the declaration] to the damage of the ſaid A. B. of twenty pounds, as it is ſaid, and in ſuch manner in our ſaid court before us it is proceeded, that the aforeſaid A. B. ought to recover his damages againſt the ſaid C. D. [If in treſpaſs, trover, or aſſault, &c. ſay, by occaſion of the premiſes] by occaſion of the not-performing the ſeveral promiſes and undertakings aforeſaid, but becauſe it is unknown in our ſaid court before us what damages the ſaid A. B. hath ſuſtained by the occaſion aforeſaid; therefore we command you, that by our writ under the ſeal of our ſaid county palatine, duly to be made out, and to the ſheriff of our ſaid county palatine to be directed, you command the ſaid ſheriff that by the oath of twelve honeſt and lawful men of his bailiwick, he diligently inquire what damages the ſaid A. B. hath ſuſtained, as well by the occaſion aforeſaid, as for his coſts and charges by him about his ſuit in that behalf laid out and ſuſtained, and the inquiſition which he thereof ſhall take do you make appear to us at Weſtminſter, on next after under his ſeal and the ſeals of thoſe by whoſe oath he ſhall take ſuch inquiſition; and have you then there this writ. Witneſs, &c. STORMONT and WAY.

(a) *Elegit*, writ of, and obſervations thereon.

GEORGE, &c. greeting: Whereas A. B. in your county before our juſtices at Lancaſter, to wit, at the ſeſſion of aſſizes there held on the day of in the year of our reign before one, &c. at Weſtminſter, and one other, &c. at Weſtminſter, then our juſtices at Lancaſter by conſideration of the ſame court recovered againſt C. D. late of, &c. in your county, as well a certain debt of pounds, as which to the ſaid A. B. in our ſame court were adjudged for his damages which he had by

(a) *Elegit* is a writ of execution that lies for him that hath recovered debt or damages, or upon a recognizance in any court againſt one not able in his goods to ſatisfy the ſame, directed to the ſheriff, commanding him to make delivery of a moiety of the party's lands and all his goods (beaſts of the plough excepted) and the creditors ſhall hold the ſaid moiety of the land until his whole debt and damages are paid and ſatisfied, and during that term he is tenant by *elegit*.

This writ ought to be ſued out within a year and a day of the judgment. *Vide* Weſt. 2. cap. 18; and 32. Henry 8. cap. 5.

occaſion

occaſion of the detention of that debt, whereof the ſaid C. D. is convicted; and afterwards the aforeſaid A. B. into our ſame court, and by virtue of the ſtatute in ſuch caſe made and provided, elected to be delivered to him all the goods and chattels of the ſaid C. D. (except the oxen and heifers of his plough) and likewiſe one moiety of all and ſingular the lands and tenements of the ſaid C. D. in your bailiwick, to hold to him the goods and chattels, and alſo to hold to him the goods and chattels and the ſaid moiety as his freehold to him and his aſſigns, according to the form of the ſtatute aforeſaid, until the debt and damages aforeſaid be thereon fully levied, and therefore we command you, that all the goods and chattels of the ſaid C. D. (except the oxen and the heifers of his plough), and likewiſe a moiety of all his lands and tenements in your bailiwick, whereof the ſaid C. D. on the aforeſaid day of , in the year of our reign, at which day judgment was therein given, or at any time afterwards, was ſeiſed or poſſeſſed to the aforeſaid A. B. without delay you cauſe to be delivered by a reaſonable price and extent, to hold to him the ſaid goods and chattels as his own proper goods and chattels, and alſo to hold the ſaid moiety as his freehold to him and his aſſigns, according to the form of the ſtatute aforeſaid until the debt and damages aforeſaid ſhall be thereof levied, and in what manner you ſhall execute this our precept make known to our juſtices at Lancaſter aforeſaid the firſt day of the next general ſeſſion of aſſizes there to be holden, under your ſeal and the ſeals of them by whoſe oaths you ſhall have made that extent and appraiſement; and have you there the names of them by whoſe oaths you ſhall make that extent and appraiſement, and this writ. Witneſs, &c.

Teſted the laſt day of the laſt aſſizes.

There may not be two ſeveral ſorts of execution out at once, but one after another, Co. Rep. 222.

Two perſons recovered againſt one in debt ſeverally; he who had the firſt judgment ſued an *elegit* and had a moiety of his lands delivered in execution; afterwards the other ſued an *elegit*; the court gave directions to the ſheriff that he ſhould deliver out the moiety which he had at the time of the writ awarded; if a judgment for damages be againſt two defendants for one cauſe, and the plaintiff take out execution by *elegit* againſt one of them, in this caſe ſome ſay he can have no execution againſt the other, 33 H. 6. 47.

If two writs of *elegit* iſſue at one time, the ſheriff ought to extend the half of all the land and give it to the more ancient debt, and then extend the half of the other half, and deliver the one half of all the one, and the other half to the other.

The ancient demeſne lands are extendable upon a ſtatute by *elegit*, Co. Rep. 5.

By virtue of an *elegit* the ſheriff cannot ſell a leaſe for a term of years, Alden's caſe, Co. Rep. 254.

After a *capias* one cannot have execution by *elegit* or other execution, but if after an *elegit* he be not ſatisfied, he may have a *capias* ſued forth upon an *elegit*, Co. Rep. 79.

A *capias* lieth not after execution ſued forth upon an *elegit* if it be returned ſerved, but if *nihil* be returned thereon, a *capias* will lie notwithſtanding the *elegit* ſued forth, Hob. Rep. 2.

The plaintiff recovered againſt the defendant as executor, and upon a *fieri facias* a *devaſtavit* was returned, and *elegit* prayed *de terris* againſt executor and granted, Cro. Eliz. Mead, and Cheyoney's caſe.

After an *elegit* a *ca. ſa.* will not lie, Cro. Crowley and Lydſate's caſe.

If upon an *elegit* nothing is taken but goods,

goods, which are not enough, the plaintiff ſhall have a *fieri facias*, Hob. 58.

Though the writ of *elegit* be right, yet if the entry of it upon the roll be wrong, it is error, Hob. 90.

It may be ſued forth after a *capias* or *fieri facias*, Hob. 57.

If a man ſhall ſell his lands, and there ſhall be a judgment obtained againſt him before his lands are ſold, whoſoever hath it, it is liable to an *elegit* to ſatisfy that judgment, and to that purpoſe ſhall go forth a *ſcire facias* againſt the tenants before the execution.

Obſerve, that if an *elegit* be gone out and lands found and returned, you ſhall never take forth any other execution, nor any other *elegit*.

That if the ſheriff have two *elegits* againſt the ſame man at one time, he may deliver a moiety of all his lands to one of them, and to the other he is only to deliver a moiety of the moiety that is left.

Upon a judgment above a year's ſtanding, you may have an *elegit* without a *ſcire facias*, but not a *fieri facias*, for that on the *elegit* they enter their continuances all along from the judgment, 7 Mod. 64; Co. Lit. 290; 2 Sha. 235.

(a) *Exigent*, writ of, obſervations thereon.

GEORGE, &c. We command you, that you cauſe to be exacted A. B. late of, &c. in your county, &c. from county court to county court until, according to law and the cuſtom of our kingdom, he be outlawed; if he do not appear, then do you take him in ſafe cuſtody and keep him, ſo that you may have his body before our juſtices at Lancaſter the firſt day of, &c. to anſwer C. D. of a plea, wherefore with force and arms the cloſe of the ſaid C. D. at P. he broke, and other wrongs to him did, to the great damage of the ſaid C. D. and againſt the peace as is ſaid; and whereupon you certified our juſtices at Lancaſter on Wedneſday laſt paſt, that the ſaid A. B. was not found in your bailiwick, and have, &c.

The day before the teſt, and teſted the laſt day of the laſt aſſizes but one.

(a) *Exigent* is a writ that lies in an action perſonal where the defendant cannot be found, nor any thing of his within the county whereby to be attached or diſtrained, and is directed to the ſheriff to proclaim and call him five county court days after another, exacting and requiring him to appear, upon pain of outlawry, or to be out of the protection of the king and his laws.

The judgment of outlawry is to be pronounced by the coroner on the fifth county court day.

(b) *Executione judicii.*

GEORGE, &c. to the mayor and alderman of our borough or vill of Preſton, in the county of Lancaſter, greeting: We command you, that execution of a judgment lately given before you in our court for the borough or vill of Preſton aforeſaid, upon a certain account in the ſame court without our writ, between A. B. plaintiff, and C. D. defendant, in a certain plea of

(b) *Executione judicii* is a writ directed to the judge of an inferior court to do execution upon a judgment therein, or to return ſome reaſonable cauſe wherefore he delays execution. If execution be not done on the firſt writ, an *alias* ſhall iſſue, and *pluries* with a cauſe *vel cauſam nobis ſignifices quare*, &c.; and if upon this writ execution be not done, or ſome reaſonable cauſe be returned why it is delayed, the party ſhall have an attachment againſt him who ought to have done the execution returnable in K. B. or C. P.

debt,

debt, without delay you cauſe to be made any other former writ to the contrary thereof notwithſtanding. Witneſs, &c.

Teſted laſt day of the laſt aſſizes.

Upon a writ of falſe judgment.

GEORGE, &c. to the ſheriff of Lancaſhire, greeting: Whereas we lately by pretext of our writ commanded you, that in open court you ſhould cauſe to be recorded the plaint which was in your county court (by our writ) between A. B. plaintiff, and C. D. defendant, in a certain plea of treſpaſs upon the caſe to the damage of the ſaid A. B. of ten pounds, which the ſame A. B. of the aforeſaid C. D. demanded, as was ſaid, whereupon the ſaid C. D. complained that falſe judgment was given againſt him in your ſaid court, and that you ſhould have that record before our juſtices at Lancaſter, at a certain day now paſt; nevertheleſs for certain cauſes moving our ſaid juſtices, the tenor of the record and proceſs aforeſaid we remit to you, commanding that execution of the ſaid judgment aforeſaid in the ſame court ſo as aforeſaid given, without delay you cauſe to be made our ſaid writ to you before directed to the contrary thereof notwithſtanding. Witneſs, &c.

To the wapentake of Weſt Derby.

GEORGE, &c. to the ſteward of the wapentake court, holden for the hundred of Weſt Derby, greeting: Whereas by pretext of our writ to the ſheriff of Lancaſhire directed, we commanded the ſaid ſheriff, that taking along with him five diſcreet and lawful men in his county, in his own proper perſon he ſhould go to the wapentake court aforeſaid, and in open court there cauſe to be recorded the ſaid plaint which was in our ſaid court without our writ, between A. B. plaintiff, and C. D. defendant, of a plea of treſpaſs on the caſe to the damage of the ſaid A. B. thirty-nine ſhillings, as was ſaid; and whereupon the ſaid A. B. complained that falſe judgment was given againſt him in the ſaid court, and that the ſaid ſheriff ſhould have that record before our juſtices at Lancaſter at a certain day now paſt; nevertheleſs for certain cauſes moving our ſaid juſtices, the tenor of the record and proceſs aforeſaid we remit to you, commanding that execution of the ſaid judgment in the ſame court ſo as aforeſaid given, without delay you cauſe to be made. Witneſs, &c.

(a) *Fieri facias.*

GEORGE, &c. to the ſheriff of Lancaſhire, greeting: We command you, that of the goods and chattels of A. B. late of, &c. in your county, &c. in your bailiwick, you cauſe to be

(a) *Fieri facias* is a writ directed to the ſheriff where judgment is had for debt or damages recovered in the king's court againſt any man, by which writ the ſheriff is commanded to levy the debt and damages of the goods and chattels of the defendant, and may be brought at any time within a year and a day after judgment.

made

made as well a certain debt of pounds, which C. D. lately in our court before our juſtices at Lancaſter recovered againſt him, as thirty-ſix pounds eight ſhillings, which to the ſame C. D. in our ſame court by the conſideration of the ſame court were adjudged for his damages which he had ſuſtained by reaſon of the detention of that debt, and that you have that money before our juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, to render to the aforeſaid C. D. of the debt and damages aforeſaid, whereof he is convicted; and have you there this writ. Witneſs, &c.

If it be directed to the bailiff of the liberty, pay two ſhillings and fourpence.

Teſted the laſt day of the laſt aſſizes.

In aſſumpſit.

GEORGE, &c. You cauſe to be made pounds, which to A. B. lately in our court before our juſtices at Lancaſter by the conſideration of the ſame court were adjudged for his damages which he had ſuſtained, as well by reaſon of the not performing certain promiſes and undertakings to the ſaid A. B. by the ſaid C. at P. in your county made, as for his coſts and charges by him about his ſuit in that behalf expended; and that you have that money, &c.

In treſpaſs upon a *non proſ.* for want of a declaration.

GEORGE, &c. You cauſe to be made twenty pounds, which to R. C. in our court before our juſtices at Lancaſter by direction of the ſame juſtices were adjudged for his coſts and charges; becauſe that the ſaid A. W. hath not proſecuted his writ in a certain plea of treſpaſs by the ſaid A. W. againſt the ſaid R. C. brought according to the form of the ſtatute thereof lately made and provided; and have you that money before our juſtices at Lancaſter, &c. to render to the aforeſaid R. C. for the coſts and damages aforeſaid; whereof he is convicted, and have, &c.

Teſted the firſt day of the next aſſizes.

After a *ſcire facias* againſt a ſurviving executor at ſuit of executors on a judgment in debt.

GEORGE, &c. We command you, that of the goods and chattels which were of R. B. gentleman, deceaſed, at the time of his death in the hands of E. W. late of, &c. executor, (together with P. C. late of , and deceaſed, whom the ſaid E. ſurvived) of the laſt will and teſtament of the ſaid P. C. to be adminiſtered in your bailiwick, you cauſe to be made, as well a certain debt of one hundred pounds, which P. C. and G. C. executors of the laſt will and teſtament of W. C. in our court before our juſtices at Lancaſter recovered againſt them, as forty-eight ſhillings and eightpence which the ſaid O. and G. in our ſame court were adjudged for their damages which they had ſuſtained by occaſion of detaining that debt, to be made of the goods and chattels which were of the ſaid R. at the time of his death in the hands of the ſaid E. to be adminiſtered if he hath ſo much thereof in his hands to be adminiſtered, and if he hath not, then the damages aforeſaid to be

made of the proper goods and chattels of the ſame E. and that you have there that money before our juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, to render to the ſame O. and G. of the debt and damages aforeſaid, whereof they are convicted, and wherefore it is conſidered in our ſaid court that the ſaid O. and G. may have execution againſt the ſaid E. who ſurvived the ſaid P. C. of the debt and damages aforeſaid, to be made of the goods and chattels which were of the ſaid R. at the time of his death in the hands of the ſaid E. to be adminiſtered; and if he hath not, then the damages aforeſaid to be made of the proper goods and chattels of the ſaid E. by default of the ſame E. and have, &c.

For defendant for coſts in treſpaſs upon the caſe.

GEORGE, &c. You cauſe to be made ten pounds, which to A. B. in our court before our juſtices at Lancaſter were adjudged for his coſts and charges about his defence in a certain plea of treſpaſs upon the caſe againſt the ſaid A. B. at the ſuit of C. D. in our ſame court ſuſtained, whereof he is convicted; and that, &c. and have you there this writ. Witneſs, &c.

After a writ of falſe judgment, the judgment being affirmed.

GEORGE, &c. We command you, that of the goods and chattels of C. D. in your bailiwick, you cauſe to be made pounds, which to P. M. in the county court held for the ſaid county by the conſideration of the ſame court were adjudged for his damages which he had ſuſtained, as well by occaſion of not performing ſeveral promiſes and undertakings by the ſaid A. D. to the ſame P. M. at P. in your county made, as for his coſts and charges by him about his ſuit in that behalf expended, whereof he is convicted, as by the inſpection of the record and proceedings thereof which now remain in our court before our juſtices at Lancaſter, and which for certain cauſes of error we have cauſed to come into our ſaid court before our ſaid juſtices at Lancaſter appears to us of record, and which ſaid record and proceedings in our ſame court before our juſtices at Lancaſter are not reverſed, but in all things affirmed, and alſo appears to us of record; and alſo eight pounds thirteen ſhillings and fourpence, which to the ſaid P. M. were adjudged before our ſame court before our ſaid juſtices at Lancaſter, according to the form of the ſtatute in ſuch caſe made and provided, for his coſts and damages which he hath ſuſtained by occaſion of the delay of execution of the aforeſaid judgment on pretence of proſecuting of the aforeſaid writ of error, whereof the ſaid A. D. is likewiſe convicted, as likewiſe appears to us of record; and that you have that money before our ſaid juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, to render to the aforeſaid P. M. for his coſts and damages aforeſaid and this writ. Witneſs, &c.

Fieri facias in *assumpsit*, by original in B. R.

GEORGE the Third, &c. to the sheriff of London, greeting: We command you, that you cause to be levied of the goods and chattels in your bailiwick of John Goddard, late of London, warehouseman, four hundred and ninety-eight pounds, which in our court before us were awarded to James Barrow for his damages which he sustained by reason of not performing certain promises and undertakings by the said John to the said James; and that you have that money before us in fifteen days from the day of Easter wheresoever we shall then be in England, to render to the said James for his said damages, whereof the said John is convicted, as appears to us of record; and have you then this writ. Witness, William lord Mansfield, at Westminster, &c.

Levy four hundred and ninety-eight pounds. LEE.

Fieri facias in trover, in a county palatine, by an administrator, in B. R.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff that of the goods and chattels of J. D. in his bailiwick he cause to be levied one hundred and eighty-six pounds ten shillings, which William Hand, administrator of all and singular the goods, chattels, and credits which were belonging to James Hand, deceased, at the time of his death, lately in our court before us at Westminster recovered against him for his damages which he sustained, as well by occasion of a certain trespass on the case done and committed by the said John Dawson to the said W. H. as administrator aforesaid, at in the said county, as for his costs and charges by him about his suit in that behalf laid out, whereof the said John is convicted, as appears to us of record; and that he have that money before us at Westminster on next after to render to the aforesaid W. for his damages aforesaid; and have you then there this writ. Witness, &c. LEE.

Testatum fieri facias against bail after *scire fa ias* sued out in *assumpsit*.

GEORGE the Third, &c. to the sheriff of , greeting: Whereas we lately commanded our sheriff of Middlesex, that of the goods and chattels of (*a*) Thomas Jackson, otherwise called Thomas Jackson of Kinsworth, in the parish of Norton and county of Derby, slater, and Samuel Atkin of Blackmore, in the said parish of Norton, weaver, the pledges and bail of Thomas Swindell, in his bailiwick, he should cause to be made thirty pounds and ten shillings, which Joseph Frith the younger, lately in our court before us at Westminster, recovered against the said Thomas Swindell for his damages which he had sustained, as well by occasion of the not performing certain promises and undertakings lately made by the said Thomas Swindell to the said Joseph Frith the younger, as for his costs and charges by him about his suit in that

(*a*) The addition of bail should be always put in.

behalf

behalf expended, whereof the ſaid Thomas Swindell is convicted, as appears to us of record, and whereon in our ſame court before us at Weſtminſter it is conſidered that the ſaid Joſeph Frith the younger may have his execution againſt the ſaid Thomas Jackſon and Samuel Atkin, for the damages aforeſaid, according to the force, form, and effect of a certain recognizance acknowledged by them the ſaid T. J. and S. A. in our ſaid court before us for the ſaid Thomas Swindell, at the ſuit of the ſaid Joſeph Frith the younger, as likewiſe appears to us of record, and that he ſhould have that money before us at Weſtminſter at a certain day now paſt, to ſatisfy the ſaid Joſeph Frith the younger, for his damages aforeſaid; and our ſaid ſheriff of Middleſex at that day returned to us that the ſaid Thomas Jackſon and Samuel Atkin had not, nor had either of them any goods or chattels in his bailiwick whereof he could cauſe to be made the damages aforeſaid, or any part thereof; whereupon on the behalf of the ſaid Joſeph Frith the younger, it is ſufficiently atteſted in our court before us, that the ſaid T. J. and S. A. have, and each of them hath ſufficient goods and chattels in your bailiwick whereof you may cauſe to be made the damages aforeſaid; therefore we command you, that of the goods and chattels of the ſaid T. J. and S. A. in your bailiwick you cauſe to be made the damages aforeſaid; and that you have that money before us at Weſtminſter on next after to ſatisfy the ſaid J. F. the younger his damages aforeſaid. Witneſs, &c.

Teſtatum fieri facias againſt bail after *ſcire facias* iſſued out in debt, by adminiſtrator.

GEORGE the Third, &c. to the ſheriff of Surry, greeting: Whereas we lately commanded our ſheriff of Middleſex, that of the goods and chattels of Thomas Swain, otherwiſe called Thomas Swain of St. Margaret's Hill, Southwark, hop-merchant, and George Thackrack, otherwiſe called George Thackrack of the ſame place, hop-merchant, the pledges and bail of Daniel May, in his bailiwick, he ſhould cauſe to be made two hundred pounds debt, which Abraham Weſſen, adminiſtrator of all and ſingular the goods, chattels, and credits, which were of Joan Weſſen, widow, deceaſed, at the time of her death, who died inteſtate, lately in the court of the lord George the Second, late king of Great Britain, &c. before the ſaid late king himſelf at Weſtminſter, recovered againſt the ſaid Daniel May, and alſo four pounds which in the ſame court were adjudged to the ſaid Abraham Weſſen, adminiſtrator aforeſaid, for his damages which he ſuſtained, as well by occaſion of the detention of that debt as for his coſts and charges by him about his ſuit in that behalf laid out, whereof the ſaid Daniel May is convicted, as appears to us of record, and whereon in our court before us at Weſtminſter it is conſidered that the ſaid Abraham Weſſen, adminiſtrator aforeſaid, may have his execution againſt the ſaid Thomas Swain and George Thackrack, and each of them, for the debt and damages aforeſaid, according to the force, form, and effect of a certain recognizance by them the ſaid Thomas Swain and George Thackrack, in the

ſaid court, of the ſaid late king, before the late king himſelf at Weſtminſter, for the ſaid Daniel May at the ſuit of the ſaid Abraham Weffen, adminiſtrator as aforeſaid, in the ſuit aforeſaid acknowledged, as likewiſe appears to us of record; and that he ſhould have the ſaid monies before us at Weſtminſter at a certain day now paſt, to be paid to the ſaid Abraham Weffen, adminiſtrator as aforeſaid, for his debt and damages aforeſaid; and our ſaid ſheriff of Middleſex at that day returned to us that the ſaid Thomas Swain and George Thackrack had not, nor had either of them any goods or chattels in his bailiwick whereof he could cauſe to be made the debt and damages aforeſaid, or any parcel thereof; whereupon on the behalf of the ſaid Abraham Weffen in our court before us it is ſufficiently atteſted, that the ſaid Thomas Swain and George Thackrack have, and each of them hath ſufficient goods and chattels in your bailiwick whereof you may cauſe to be made the debt and damages aforeſaid; therefore we command you, that of the goods and chattels of the ſaid Thomas Swain and George Thackrack in your bailiwick you cauſe to be made the ſaid two hundred pounds, the debt aforeſaid, and the ſaid four pounds the damages aforeſaid; and that you have the monies before us at Weſtminſter on next after to be paid to the ſaid Abraham Weffen for his debt and damages aforeſaid; and have you then there this writ. Witneſs, &c.

Teſtatum capias ſatisfaciendum in *aſſumpſit* from Middleſex into Lancaſhire.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas we lately commanded our ſheriff of Middleſex that he ſhould take George Thompſon if he ſhould be found in his bailiwick, and him ſafely keep, ſo that he might have his body before us at Weſtminſter at a certain day now paſt, to ſatisfy William Moore eleven pounds ten ſhillings, which the ſaid W. lately in our court before us recovered againſt the ſaid G. for his damages which he ſuſtained, as well by occaſion of the non-performance of certain promiſes and undertakings lately made by the ſaid G. to the ſaid W. as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid George is convicted, as appears to us of record, and our ſaid ſheriff of Middleſex at that day returned to us that the ſaid George Thompſon was not found in his bailiwick; whereupon on behalf of the ſaid William it is ſufficiently atteſted in our court before us that the ſaid G. T. doth ſecrete himſelf in your county; therefore we command you that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſaid county palatine, that you command the ſaid ſheriff that he take the ſaid G. T. if he may be found in his bailiwick, and him ſafely keep, ſo that he may have his body before us at Weſtminſter on next after to ſatisfy the ſaid William Moore for his damages aforeſaid; and have you then there this writ. Witneſs.

GEORGE

GEORGE the Third, &c. to our chancellor of our county palatine of Cheſter, or to his deputy there, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaſter that by our writ under the ſeal of our ſaid county palatine of Lancaſter, in due manner to be made out and to be directed to the ſheriff of our ſaid county palatine of Lancaſter, he ſhould command the ſaid ſheriff that he ſhould take George Hope the younger, if he ſhould be found in his bailiwick, and keep him ſafely, ſo that he might have his body before us at Weſtminſter at a certain day now paſt to ſatisfy Sarah Barlow, widow, of ſeventeen pounds ten ſhillings, which the ſaid Sarah lately in our court before us at Weſtminſter recovered againſt the ſaid George for her damages which ſhe ſuſtained, as well by means of not performing certain promiſes and undertakings lately made by the ſaid George to the ſaid Sarah as for her coſts and charges by her about her ſuit in this behalf expended, whereof the ſaid George is convicted, as appears to us of record, and our ſaid chancellor of our ſaid county palatine of Lancaſter at that day returned to us that the ſaid ſheriff, in anſwer to the ſaid writ to him directed, had returned to him our ſaid chancellor that the ſaid George was not found in his bailiwick; whereupon on the behalf of the ſaid Sarah it is ſufficiently atteſted in our ſaid court before us that the ſaid George doth lurk and ſecrete himſelf in our ſaid county palatine of Cheſter; therefore we command you that by our writ under the ſeal of our ſaid county palatine of Cheſter, duly to be made out and to be directed to the ſheriff of the ſaid county, you command the ſame ſheriff that he take the ſaid George if he may be found in his bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on Wedneſday next after to ſatisfy the ſaid Sarah of the damages aforeſaid; and have there then this writ. Witneſs, William lord Mansfield, at Weſtminſter, &c.

LEE.

Teſtatum capias ſatisfaciendum from one county palatine into another, in B. R. in *aſſumpſit.*

GEORGE the Third, &c. to the ſuitors of the county of Middleſex, and the county clerk of Middleſex, and to every of them, greeting: Whereas as well by our royal prerogative as our ancient cuſtom in times paſt uſed and approved of, and which hath to this preſent time been obſerved, all and every attornies aſſigned to be enrolled in our court before us ought not to be, nor have they during all the time aforeſaid been uſed to be drawn or compelled to anſwer before any ſeveral judges upon any plaint or pleas in any other place than in our ſaid court before us; and whereas we have received information on the behalf of Simon Stanton, gentleman, being one of the attornies in our court before us, that ſome ill-diſpoſed perſons, having no regard to our prerogative and the cuſtom aforeſaid, do draw, and by their officers purpoſe to draw into plea him the ſaid Simon Stanton before you, or ſome of you, as we have been informed, in manifeſt breach

Writ of privilege for an attorney to remove a plaint out of the court of conſcience, in B. R.

and diminution of our prerogative and the cuſtom aforeſaid, which ſhould we ſuffer would lead to a pernicious example for the future; therefore we command and firmly enjoin you and every of you, that you forthwith totally ceaſe from any further proceeding in all plaints and pleas by whomſoever brought or to be brought againſt him the ſaid Simon Stanton in your court before you or either of you, by whatſoever name the parties are called before you, or any of you, acquainting the parties in ſuch plaints and pleas that they may apply to our court before us for juſtice to be done them therein againſt the ſaid Simon Stanton if they think proper. Witneſs, &c.

LEE.

(a) Attachment for contempts.

GEORGE the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. to the ſheriff of Lancaſter, greeting: We command you, that you attach A. W. ſo that you may have his body before our juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, to anſwer us of and concerning certain contempts of the ſame A. committed, and further to do and receive what our court of him ſhall then and there conſider in this behalf. Witneſs, &c.

Endorſed by rule of court of the day of , at the ſuit of T.W. gentleman, for non-payment of ſix pounds ten ſhillings for coſts.

Teſted the laſt day of laſt aſſizes.

(a) Attachment is to take one's body to bring him to anſwer; it alſo iſſues for contempt of the court for not obeying rule or order; and the perſons attached may be examined upon oath or upon interrogatories.

Againſt an informer, upon ſuffering a *non proſ.*

GEORGE, &c. [as in the other until "to anſwer," inſtead of which ſay "to ſatisfy M. O. for fifty ſhillings], which to the ſame M. in our court before our juſtices at Lancaſter, according to the form of the ſtatute in that caſe made and provided, were adjudged for his coſts and charges which the ſaid M. hath ſuſtained by occaſion of a certain information againſt the ſaid M. by the aforeſaid A. in our court aforeſaid exhibited, the ſaid A. as well for us as for himſelf exhibited that information, did not proſecute the ſame information according to the form of the ſtatute in ſuch caſe made and provided, whereof he is convicted; and have, &c.

Upon the ſtatute of uſury.

GEORGE, &c. [as before until] to anſwer us of and concerning certain treſpaſſes and contempts againſt the form of the ſtatute made againſt uſury, upon which he is impleaded, &c.

GEORGE

GEORGE, &c. [as in the firſt until] to anſwer E. G. gentleman, one of the attornies of our court of our bench here at Lancaſter aforeſaid, according to the liberties and privileges of the ſame court for ſuch attornies and other miniſters of the ſame court, [for ſuch attornies and other miniſters of the ſame bench, if in C. B.] from time whereof the memory of man is not to the contrary uſed and approved in the ſame, of a plea of debt; and have you there this writ. Witneſs, &c. (a) Attachment or writ of privilege.

(a) Attachment, or writ of privilege, is where a man by virtue of his privilege calls anſwer to that court whereto he himſelf belongs, and in reſpect thereof is privileged there to anſwer ſome action; or if it is a power to apprehend a man in a place privileged.

IF it be of a plea of debt againſt many, then ſay, of a plea of debt ſeverally. Attachment in perſon.

For ſuch juſtices and other our miniſters. For a judge.

For ſuch prothonotaries and other miniſters. For a prothonotary.

To anſwer J. D. one of our ſerjeants at law, according to the liberties and privileges of our court of our bench. For a ſerjeant at law.

To anſwer A. B. gentleman, one of the clerks of J. F. eſquire, chief prothonotary of our court of our bench here at Lancaſter, according to the liberties and privileges of the ſame court for ſuch prothonotary, their clerks, and other miniſters, &c. For the clerk of a prothonotary.

If an officer's or attorney's clerk brings a writ of privilege to be ſued in their own court, the court on motion will grant a ſuperſedeas to it, 2. Sho. 287.

A plea of privilege comes too late after imparlance, Hard. 365. Lut. 7. 47. 2. Sho. 245. 445.

GEORGE, &c. to the ſheriff of Lancaſhire, greeting: We command you, that you diligently enquire by the oaths of twelve honeſt and lawful men of your bailiwick, if it will be to the damage of us or of any others if we grant to R. F. eſquire, licence to incloſe a certain common highway leading from Overton to Tunſtall Church, &c. and that he may hold the ſame way ſo incloſed to him and his heirs for ever, ſo that inſtead of the ſame way he the ſaid R. F. do in his own land there make or cauſe to be made a certain other highway of the ſame length or breadth, as convenient for us and our ſubjects paſſing through the ſame by themſelves, or with horſes, oxen, carts, and carriages; and if it be to the damage or prejudice of us or any other, of whom, and how, and in what manner, and how much the ſame way, ſo to be holden, doth by number of perches or feet of land, as well in length as breadth extend; and that you ſend the inquiſition which you ſhould make thereupon without delay to us in our chancery at Lancaſter directly under your ſeal and the ſeals of them by whom the ſame ſhall be made, and this writ. Witneſs ourſelf at Lancaſter. (b) Writ of *ad quod damnum*, for incloſing a common highway in lieu of making another.

(b) *Ad quod damnum* is a writ which ought to be iſſued before the king grants certain liberties, as a fair or market, and which may be prejudicial to others. It is directed to the ſheriff to enquire what damages it may do to the king to grant a market,

market, fair, &c. Terms De Ley, 25. It is alſo in ſeveral other caſes; for which ſee Jacob's Law Dictionary, under the title *Ad quod Damnum*.

(a) *Capias ad reſpondendum* in a variety of caſes in the common pleas at Lancaſter, in treſpaſs.

GEORGE, &c. to the ſheriff of Lancaſhire, greeting: We command you, that you take A. B. late of in your county, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Lancaſter on Wedneſday the day of next enſuing, [or if you would make it returnable at the aſſizes ſay, "the firſt day of the next general ſeſſion of aſſize there to be holden"] to anſwer C. D. of a plea wherefore with force and arms the cloſe of the ſaid C. D. at Preſton he broke, and other wrongs to him did, to the great damage of the ſaid C. D. and againſt our peace, as it is ſaid; and have you there this writ. Witneſs, William earl of Mansfield, at Lancaſter, the twentieth day of March in the twentieth year of our reign BOWLES.

Teſted the firſt day of the laſt preceding aſſizes,

A. B.

You are ſerved with this proceſs to the intent that you may appear in his majeſty's court of common pleas at Lancaſter, at the return thereof, being on Wedneſday the day of 1780 (or if returnable at the aſſizes as before), in order to your defence in this action.

(a) *Capias ad reſpondendum* is where an original is ſued out (before judgment is given in a perſonal action) to take the defendant, and to bring him to anſwer the plaintiff.

In debt.

[As in the other until] that you take J. T. late of P. in your county, yeoman, otherwiſe called, &c. to anſwer J. H. of a plea that he render to him ten pounds which to him he owes and unjuſtly detains; and have, &c. Witneſs, &c.

[Teſted as before.]

When there are two defendants.

[As before until] to anſwer A. B. of a plea that the aforeſaid E. F. render to him twenty pounds; and of a plea that the aforeſaid G. H. render to him twenty pounds, which to him they owe and unjuſtly detain, as is ſaid; and have, &c.

Alias.

George the Third, &c. to the ſheriff of Lancaſhire, greeting: We command you as before we commanded you, that you take, &c.

Pluries capias, as for the laſt above.

George, &c. We command you, as often before we commanded you, that you take, &c.

In *qui tam* action.

George, &c. to anſwer us and W. F. who as well for us as for himſelf proſecutes of a plea that he render to us and the ſaid W. F. ten pounds, which to us and to the ſaid W. F. he owes and unjuſtly detains, as is ſaid; and have, &c.

That

That in actions of detinue, caſe, trover, or in any other perſonal action, they ought to make the *capias* to agree with the body of the original, for they ought to be all one in ſubſtance. Vide 5. G. 1. c. 15. ſ. 1. No variance or effect in any of the proceedings to be inſiſted on after verdict in error.

George, &c. that you take A. L. of, &c. widow, adminiſtratrix of the goods and chattels which were of J. her late huſband, at the time of his death, who died inteſtate, if ſhe ſhall be found in your bailiwick, &c. Againſt an adminiſtratrix.

George, &c. to anſwer J. H. adminiſtrator of all and ſingular the goods and chattels, rights and credits, which were of G. S. lately deceaſed, at the time of his death, with the will of the ſaid G. S. annexed, of a plea, &c. At ſuit of an adminiſtrator with will annexed.

George, &c. to anſwer A. B. and C. D. executors of the laſt will and teſtament of E. F. of a plea, &c. At ſuit of executors.

George, &c. to anſwer A. B. and C. D. aſſignees of the goods and chattels, credits and effects of E. F. a bankrupt, according to the form of the ſtatute in ſuch caſe made and provided, of a plea, &c. At ſuit of aſſignees of a bankrupt.

George, &c. to the coroners of Lancaſhire, greeting: We command you, &c. to anſwer J. H. eſquire, ſheriff of the county aforeſaid, of a plea, &c. At ſuit of the ſheriff, directed to the coroners.

CAPIAS AD SATISFACIENDUM in Common Pleas at Lancaſter, in a variety of Caſes. (*a*)

GEORGE, &c.: We command you, that you take A. B. if, &c. to ſatisfy C. D. of ten pounds, which to the ſame C. lately in our court before our juſtices at Lancaſter, according to the form of the ſtatute thereof lately made and provided, were adjudged for their coſts and charges in and about his defence in a certain action of debt on demand, in our ſame court before our juſtices brought, in which ſaid action the ſaid A. B. againſt the ſaid C. D. as well for us as for himſelf proſecuted, and in the ſame action the ſaid A. B. was nonſuited, whereof he is convicted; and have, &c.

Teſted the laſt day of the laſt aſſizes.

For defendant on a nonſuit, for not joining iſſue in an action *qui tam*. 23. H. 8. c. 15. 8. Eliz. c. 2. 4. Jac. c. 3.

George, &c. which he hath ſuſtained as well by reaſon of certain treſpaſſes and aſſaults upon the ſame C. D. by the ſaid A. B. with force and arms, and againſt our peace, at P. in your county, made as for his coſts and charges by him about his ſuit in this behalf expended, whereof he is convicted; and have, &c. In treſpaſs and aſſault.

George, &c. to ſatisfy C. D. of twenty ſhillings, which to the ſame C. in our court before our juſtices at Lancaſter, by the directions of the ſame juſtices, according to the form of the ſtatute thereof For defendant, upon a *non proſ.* for want of declaration.

(*a*) Theſe forms will apply to other counties palatine, &c. in all other courts.

lately made and provided, were adjudged for his coſts and charges, becauſe that the aforeſaid A. did not proſecute his writ in a plea of treſpaſs by the ſame A. againſt the ſaid C. in our ſaid court obtained, whereof he is convicted; and have, &c.

For coſts upon a nonſuit in replevin.

George, &c. to ſatisfy C. D. of twenty-ſix pounds ſixteen ſhillings and eightpence, which to the ſame C. in our court before our juſtices at Lancaſter, according to the form of the ſtatute thereof lately made an d proided, were adjudged for his coſts and charges about his defence in a certain plea of taking and unjuſtly detaining a mare and a foal by the ſaid H. againſt the ſaid C. in our ſame court brought, which ſame plea the ſaid H. did not proſecute; whereof he is convicted; and have, &c.

For the plaintiff in ejectment, for coſts.

George, &c. to ſatisfy A.B. of twenty pounds, which to the ſame A. in our court before our juſtices at Lancaſter were adjudged for his damages which he hath ſuſtained by occaſion of a certain treſpaſs in ejectment by the ſaid C. D. with force and arms, and againſt our peace, at P. in your county done; whereof he is convicted; and have, &c.

Againſt the plaintiff in ejectment, for defendant's coſts on a verdict.

George, &c. to ſatisfy A. B. of twenty pounds, which to the ſame A. in our ſame court before our juſtices at Lancaſter, according to the form of the ſtatute thereof lately made and provided, were adjudged for his coſts and charges by him ſuſtained about his defence in a certain action of treſpaſs in ejectment, which the ſame C. in our ſame court againſt the ſaid A. brought and proſecuted; whereof the ſaid C. is convicted; and have, &c.

Capias ad ſatisfaciendum in debt is a judicial writ for execution after judgment, to take the body of a man to impriſon him till ſatisfaction is made. It lies not at common law, but it is given in many caſes by ſtatute. There is alſo *capias ad ſatisfaciendum* for plaintiff after *fieri facias*, and a *capias ad ſatisfaciendum* on a writ of enquiry in caſe.

In debt.

George, &c. to the ſheriff of Lancaſhire, greeting: We command you that you take A. B. late of in your county, if, &c. and him ſafely keep, ſo that you may have his body before our juſtices at Lancaſter the firſt day of the then next general ſeſſion of aſſizes there to be holden, to ſatisfy C. D. as well for a certain debt of twenty pounds, which the ſame C. in our court before our juſtices at Lancaſter hath lately recovered againſt him, as of twenty-ſix ſhillings and eight-pence, which to the ſame C. in the ſame court were adjudged for his damages which he hath ſuſtained by occaſion of the detaining that debt; whereof the ſaid A. is convicted; and have you there this writ. Witneſs, &c.

Teſted the laſt day of the laſt aſſizes.

In treſpaſs.

George, &c. to ſatisfy C. D. of fifteen ſhillings, which to the ſaid C. lately in our court before our juſtices at Lancaſter were adjudged for his damages which he had ſuſtained, as well by reaſon of

of certain treſpaſſes by the ſaid A. to the ſaid C. lately done, as for his coſts and charges by him about his ſuit in this behalf expended; whereof he is convicted; and have, &c.

After a *fieri facias* and *nulla bona* returned in *aſſumpſit*, at ſuit of an adminiſtratrix and her huſband.

George, &c. to the ſheriff of Lancaſhire, greeting: Whereas by our writ we lately commanded you, that of the goods and chattels of A. B. late of, &c. in your bailiwick, you ſhould cauſe to be levied nineteen pounds ſixteen ſhillings and eightpence, which to C. D. and M. his wife, lately called M. F. widow, adminiſtratrix of the goods and chattels, rights and credits, which were of W. F. her late huſband, deceaſed, who died inteſtate, as is ſaid lately in our court before our juſtices at Lancaſter were adjudged for their damages which they had ſuſtained as well by occaſion of the not performing of ſeveral promiſes and undertakings to the ſaid W. in his lifetime, at P. in your county, by the ſaid A. made, as for his coſts and charges by them about their ſuit in this behalf expended; and that you ſhould have that money before our juſtices at Lancaſter at a certain day now paſt, to render to the aforeſaid C. and M. of the damages aforeſaid, whereof he is convicted; and you returned to our juſtices at Lancaſter at that day that the aforeſaid A. had no goods or chattels in your bailiwick whereof the damages aforeſaid, or any part thereof, ſhould be levied; therefore we command you that you take the aforeſaid A. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, to make ſatisfaction to the ſaid C. and M. of the damages aforeſaid; and have you there this writ. Witneſs, &c.

Againſt an adminiſtratrix, in debt (after *fieri facias* returned *nulla bona*), for the damages *de bonis propriis*, in debt.

1. R. Pr. C.B. 243.

In *aſſumpſit*. 1. R. Pr. C.B. 245.

George, &c.: Whereas we lately commanded you that of the goods and chattels which were of A. B. at the time of his death, who died inteſtate, in the hands of A. B. widow, adminiſtratrix of all and ſingular the goods and chattels, rights and credits, which were of the ſaid A. to be adminiſtered, in your bailiwick, you ſhould cauſe to be made, as well a certain debt of fifty-two pounds which C. D. lately in your court before our juſtices at Lancaſter recovered againſt the ſaid A. as of nineteen pounds which to the ſaid C. in our ſame court were adjudged for his damages which he ſuſtained by occaſion of detaining that debt, if the ſaid A. had in her hands ſo many goods and chattels which were of the ſame A. at the time of his death, to be adminiſtered; and if ſhe had not, then that you ſhould cauſe to be made nineteen pounds for the damages aforeſaid of the proper goods and chattels; and that you ſhould have that money before our juſtices at Lancaſter at a certain day now paſt, to render to the ſaid C. of the debt and damages aforeſaid; and at that day you returned to our ſaid juſtices that the ſaid A. had no goods or chattels in your bailiwick whereof the damages aforeſaid, or any part thereof could be made; therefore we command you that you take the ſaid A. if ſhe ſhall be found in your

your bailiwick, and her ſafely keep, ſo that you may have her body before our juſtices at Lancaſter, &c. to ſatisfy the ſaid C. of the damages aforeſaid, &c.

If you ſue out a *fieri facias* againſt the goods, you cannot have a *ca. ſa.* againſt his body till the return of the *fieri facias*, Moor's Rep. 69, 70.

After a *fieri facias* when the ſheriff had levied part and returned *nihil habet* for the reſidue.

George, &c.: Whereas by our writ we commanded you, that of the goods and chattels of A. B. in your bailiwick you cauſe to be made, as well a certain debt of twenty pounds which C. D. in our court before our juſtices at Lancaſter lately recovered againſt him, as twenty-ſix ſhillings which to the ſame C. in our ſame court were adjudged for his damages which he had ſuſtained by occaſion of the detention of that debt; and that you ſhould have that money before our juſtices at Lancaſter at a certain day now paſt, to render to the aforeſaid C. of the debt and damages aforeſaid, whereof he is convicted; and at that day now returned to our juſtices at Lancaſter that of the goods and chattels of the ſaid A. you had cauſed to be made twelve pounds, and that money you had ready at that day and place aforeſaid, and that the aforeſaid A. no other or more goods or chattels had in your bailiwick whereof the reſidue of the damages aforeſaid could be made and levied, as by our writ you was commanded; therefore we command you that you take the aforeſaid A. if, &c. and him ſafely keep, ſo that you may have, &c. to ſatisfy the aforeſaid C. of the reſidue of the debt and damages; and have, &c.

If the principal, upon ſpecial bail, does not after judgment pay the money or yield his body then, and not before, execution is to be ſued againſt the bail.

If a woman, executrix to J. S. take a huſband, and the huſband and wife bring debt on an obligation in the right of his wife as executrix to J. S. againſt J. D. and have judgment againſt him, and recover the debt with damages and coſts, and after his wife die before execution is ſued, the huſband ſhall not have execution on this judgment, but the ſucceeding executor or adminiſtrator to J. S. Co. 5. 70.

Capias ut lagatum (*a*) in the common pleas at Lancaſter.

GEORGE, &c. to the ſheriff of Lancaſhire, greeting: We command you, that you omit not by reaſon of any liberty within your county, but take A. B. late of in your county, outlawed at the Moot Hall in Lancaſter, in your county [here ſet forth

(*a*) To a writ of execution after judgment which lieth againſt one outlawed upon any ſuit, directed to the ſheriff, commanding him upon receipt thereof to apprehend the party outlawed for contempt in not appearing upon the *exigent*, and to keep him in ſafe cuſtody, and to bring him into the court at the return thereof, where he is to remain without bail or mainprize.

Capias ut lagatum et inquirendum de bonis is a writ of the ſame nature as the former, only it gives power to the ſheriff (over and beſide the apprehenſion of his body) to enquire alſo of his goods and chattels, and either of them may be had before or after judgment for debt and damages, Winch. 78. on N. Br. 154.

the

the day], at the ſuit of C. D. of a plea of debt, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, to do and receive what our court of him ſhall conſider in this behalf; and have, &c.: Witneſs, &c.

[If it be after judgment then ſay of a plea of debt whereof he is convicted.]

Non omittas writ *de inquirendum* to above.

George, &c. to the ſheriff of Lancaſhire, greeting: We command you, that you omit not by reaſon of any liberty within your county, but by the oath of honeſt and lawful men of your county you diligently enquire what goods and chattels, lands and tenements, A. B. late of, &c. hath or had in your bailiwick, on Tueſday the day of in the year of our reign, or ever afterwards, on which day the ſaid A. was outlawed in your county at the ſuit of C. D. of a plea of debt, as you returned to our juſtices at Lancaſter at a certain day now paſt, and the ſame by their oaths you cauſe to be extended and appraiſed of the true value thereof, and thoſe by whom their inquiſition you ſhall find you take into your hands, and cauſe to be kept, ſo that you may have to us of the true value and iſſues thereof, the ſame being ſo extended and appraiſed, and what you do therein make known to our juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, diſtinctly and openly under your ſeal and the ſeals of them by whoſe oath you ſhall make the extent and appraiſement: And for that whereas the aforeſaid A. being outlawed lurketh and runneth up and down in contempt of us and in prejudice of our crown, as we underſtand, we command you, that you take the ſaid A. B. whereſoever he ſhall be found in your bailiwick, as well within liberty as without, and him ſafely keep, ſo that you may have his body before our juſtices at the day and place aforeſaid, to do and receive what our court of him ſhall conſider in this behalf; and have you there the names of them by whoſe oaths you ſhall make that extent and appraiſement of this writ. Witneſs, &c.

Men outlawed ſhall be put to anſwer to actions brought againſt them, but not to be anſwered in any action brought by them; and if ſuch a man ſue another, he that is ſued may plead this outlawry in bar of this ſuit, but then it muſt be ſhewn in court *ſub pede ſigilli*, Co Inſt. 1. 8.—The original was againſt Levellin, with a *cap.* againſt one, and all the meſne proceſs was againſt Levellin with a *cap.* againſt two; alſo the proceſs was againſt two, and the ſheriff returned *non ſunt inventi*, but doth not ſay *nec eorum aliquis*; for theſe cauſes an outlawry was reverſed.—Error to reverſe an outlawry; the original was Sheffinton, and the meſne proceſs Shiffington, and for this variation it was reverſed. Outlawry reverſed, becauſe *cap.* was *teſte* E. Anderſon, and ſo it was wanting, for it ſhould have been *teſte*, by the court. Upon a *cap. ut la.* though on meſne proceſs and at ſuit of a ſubject; yet upon that writ they may break open any outlawed doors after demand and refuſal. 5. Co.—On information for a riot and forcible entry into a houſe; defendant entered on pretence of a forfeiture on conviction of murder, being bailiff of Weſtminſter. Court would not admit it in evidence; for let a man's poſſeſſion be rightful or wrongful, a forcible entry on an houſe, though with a lawful pretence, is a riot.

GEORGE,

Diſtringas juratores, for a view of the *locus in quo*.

GEORGE, &c.: We command you, that you diſtrain all the lands and chattels in your bailiwick of A. B. C. D. E. F. and G. H. all of Cartmelſelt; J. K. of M.; L. M. of N.; and O. P. of U. all in your county, gentlemen, jurors ſummoned, impannelled, and returned by you to appear in our court before our juſtices at Lancaſter, for the trial of the iſſue joined in a certain cauſe between A. B. plaintiff, and C. D. defendant, of a plea of , ſo that you may have their bodies at the place in queſtion between the ſaid parties, upon Saturday the thirteenth day of Auguſt next, to take a view and conſider of the premiſes in queſtion before the time of the trial of the ſaid iſſue; and have you the names of the ſaid jurors who ſhall take ſuch view before our juſtices at Lancaſter the firſt day of the next general ſeſſion of aſſizes there to be holden, and this writ. Witneſs, &c.

Writ of *grand cape* (*a*), in dower, and obſervations thereon.

GEORGE, &c. greeting: Take into our hands by the ſight of honeſt and lawful men of your county, the third part of one meſſuage, &c. with the appurtenances, in P. which A. B. widow, who was the wife of C. B. in our court before our juſtices at Lancaſter claims againſt D. B. as the dower of the ſame A. B. of the endowment of the ſaid C. formerly her huſband by our writ of dower, whereof ſhe nothing hath by default of the ſame C. D. and the day of taking make known to our juſtices at Lancaſter, by our letters ſealed and ſummoned by good ſummoners, the ſame D. B. that he be before our juſtices at Lancaſter, on Monday next to come in this ſame ſeſſion of aſſizes there to be holden, to anſwer and ſhew why he was not in our court before our juſtices at Lancaſter aforeſaid on the firſt day of the ſame general ſeſſion of aſſizes, as he was ſummoned; and have you there the names of them by whoſe ſight you ſhall do this, and the names of the ſummoners, and this writ. Witneſs, &c.

Laſt day of the aſſizes on which the writ iſſues.

Teſted the firſt day of the aſſizes.

(*a*) *Grand cape* is a writ which lies before appearance, to ſummon the tenant to anſwer the default; and alſo over to the demandants; and in the *Nat. Brev.* it is defined to be where a man hath brought a *preciſe quod red.* of a thing touching plea of lands, and the tenant makes default at the day to him given in the original writ, then this writ ſhall go to the king to take the lands into his hands; and if the tenant come not at the day given him thereby he loſeth his land.

Petit cape is where the tenant is ſummoned in a plea of lands and comes on the ſummons, and his appearance is recorded; if at the day given him he prays the view, and having it granted makes default, then ſhall iſſue this writ for the king, Nat. Brev. 161. The difference between the *grand* and *petit cape* is that the *grand cape* is awarded upon the tenant's not appearing, or demanding the view in ſuch real actions, where the real writ does not mention the particulars demanded. And the *petit cape* is after appearance or view granted; and whereas the *grand cape* ſummons the defendant to anſwer for the default, and likewiſe over to the demandant, the *petit cape* ſummons the defendant to anſwer the default only.

GEORGE

Grand cape for default of appearance, in dower.

GEORGE the Third, &c. to the ſheriff of Somerſetſhire, greeting: Take into our hands, by the view of honeſt and lawful men of your county, the third part of eight acres of land, half an acre of meadow, and eighteen acres of paſture, in the pariſh of Curry Revel, which Elizabeth Coate, widow, who was the wife of William Coate, in our court before our juſtices at Weſtminſter, claimeth as her dower by the endowment of the ſaid William, heretofore her huſband, againſt Jeffery Pottinger, by our writ of dower, whereof ſhe hath nothing by the default of the defence of the ſaid Jeffery, and the day of taking do you certify to our juſtices at Weſtminſter by your letters ſealed and ſummoned by good ſummoners the aforeſaid Jeffery that he be before our juſtices at Weſtminſter in days after to anſwer thereunto, and to ſhew wherefore he was not in our court before our juſtices from the day of in laſt paſt, as he was ſummoned; and have you there the names of them by whoſe view you ſhall make this ſummons, and this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the day of , in the year of our reign.

DICKENS.

Grand cape after an eſſoign adjourned.

GEORGE the Third, &c. to the ſheriff of Somerſetſhire, greeting: Take into our hands, by the view of honeſt and lawful men of your county, the third part of four acres of meadow, in the pariſh of Aller, which Elizabeth Coate, widow, who was the wife of William Coate, in our court before our juſtices at Weſtminſter, claimeth as her dower by the endowment of the ſaid William, heretofore her huſband, againſt George Sawthe, by our writ of dower, whereof ſhe hath nothing by default of the ſaid George, and the day of taking do you certify to our juſtices at Weſtminſter by your letters ſealed and ſummoned by good ſummoners the aforeſaid George that he be before our juſtices at Weſtminſter in days of the to anſwer thereunto, and to ſhew wherefore he kept not the day to him given by his eſſoign in our court before our juſtices at Weſtminſter from the day of in days laſt paſt after he had been ſummoned; and have you there the names of them by whoſe view you ſhall make this ſummons, and this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, the day of , in the year of our reign.

COOKE.

Fi. fa. upon a *non proſ.* for want of a replication.

GEORGE the Third, &c, to the ſheriff of , greeting: We command you, that of the goods and chattels of A. B. in your bailiwick you cauſe to be made ſeven pounds ten ſhillings, lately adjudged to C. D. in our court before our juſtices at W. according to the form of the ſtatute in ſuch caſe made and provided, for his coſts and charges by him about his defence in a certain action of treſpaſs on the caſe lately brought in our ſame court before our juſtices at Weſtminſter by the ſaid A. againſt the ſaid C. and

which the ſaid A. hath not ſince further proſecuted; and have you that money before our juſtices at Weſtminſter [the return] to render to the aforeſaid C. for his coſts and charges aforeſaid, whereof the ſaid A. is convicted; and have you there this writ. Witneſs, &c.

A pone on recordari, in replevin.

GEORGE the Third, &c. to the ſheriff of Somerſetſhire, greeting: Put by gages and ſafe pledges William Farthing, that he be before our juſtices at Weſtminſter in days to anſwer to Henry Cludland of a plea wherefore he took the cattle of the aforeſaid Henry and them detained againſt gages and pledges, as it is ſaid, to ſhew wherefore he was not in our court before our juſtices at Weſtminſter from the day of in days laſt paſt, being the day to him prefixed: and have you there the names of the pledges, and this writ. Witneſs, &c.

MARTIN.

A writ of reſcue againſt the wife and ſon, and a *teſt. ca. ad reſp.* againſt the huſband in debt.

GEORGE the Third, &c. to the ſheriff of Dorſetſhire, greeting: We command you, that you take Elizabeth Foote, the wife of William Foote, late of Filehead Nevil, in your county, yeoman, and John Foote, ſon of the ſaid William Foote, if they ſhall be found in your bailiwick, and them ſafely keep, ſo that you may have their bodies before our juſtices at Weſtminſter in days of to anſwer to us of a certain treſpaſs, reſcue, and contempt by you before our juſtices at Weſtminſter from the day of in laſt paſt returned: We alſo command you, as formerly we have commanded you, that you take the aforeſaid William Foote, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter at the day aforeſaid to anſwer to Willoughby Johnſon, executor of the laſt will and teſtament of Jane Willoughby, of a plea that he render to him pounds which he owes to him and unjuſtly detains, as it is ſaid; and have you there this writ. Witneſs, &c.

MARTIN.

Writ of enquiry on an attachment at the ſuit of an attorney of C. B.

GEORGE the Third, &c. to the ſheriff of Hertfordſhire, greeting: Whereas John Baker was attached by our writ of privilege iſſuing out of our court of common bench to be in our court before our juſtices at Weſtminſter to anſwer unto William Tannett, gentleman, one of the attornies of our ſaid court of C. B. according to the liberties and privileges of our ſame court for ſuch attornies and other miniſters of the ſame bench time out of mind uſed and approved of in the ſame of a plea, that whereas the ſaid John, after the firſt day of May, in the year of Our Lord 1705, [to the end of the declaration] to the damage of the ſaid William of pounds, as it is ſaid, and in ſuch manner in our ſame court [as in others until the return, which is always at a day certain],

certain], on Wednesday next after fifteen days from the day of Easter, under your seal. Witness sir John Eardley Wilmot, knight, at Westminster, the day of , in the year of our reign.

COOKE.

A *fi. fa.* into a county palatine, in assumpsit.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff, that of the goods and chattels of C. D. in his bailiwick, he cause to be levied one hundred pounds which A. B. gentleman, lately in our court before us at Westminster recovered against him for his damages which he sustained as well by occasion of the not performing certain promises and undertakings by the said C. to the aforesaid A, lately made as for his costs and charges by him about his suit in that behalf laid out, whereof the said C. is convicted, as appears to us of record; and that he have that money before us at Westminster on next after to render to the aforesaid A. for his damages aforesaid; and have you then there this writ. Witness, &c.

Fi. fa. in debt into a county palatine.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county palatine duly to be made out, and to be directed to the sheriff of the same county, you command the same sheriff, that of the goods and chattels of John Halliwell in his bailiwick you cause to be levied pounds which Hugh Halliwell lately in our court before us at W. recovered against him of debt, and also sixty-three shillings which in our said court before us was adjudged for his damages as well on occasion of detaining that debt as for his costs and charges by him about his suit in that behalf laid out, and whereof the said John is convicted, as appears to us of record; and that you have that money before us at Westminster on next after the to render to the aforesaid Hugh for his debt and damages aforesaid; and have you then there this writ. Witness William lord Mansfield, at Westminster, the day of , in the year of our reign.

LEE AND ANTONIE.

Fi. fa. on a new *prof.*

GEORGE the Third, &c. to the sheriff of , greeting: We command you, that you cause to be made of the goods and chattels of A. B. in your bailiwick, pounds which were adjudged to C. D. in our court before us at Westminster, according to the form of the statute thereof lately made and provided, for his costs and charges by him sustained in a certain action of trespass, or on the case (as it is), lately brought in our said court before us by the

ſaid A. againſt the ſaid C. whereupon the ſaid A. hath not afterwards further proſecuted his ſaid action, whereof the ſaid A. is convicted, as it appears to us of record; and have you the money before us at Weſtminſter on next after to render to the ſaid C. for his coſts and charges aforeſaid; and have you there then this writ. Witneſs, &c.

This will do on any *non proſ.* or nonſuit.

Ca. ſa. againſt plaintiff for not proſecuting his action, in treſpaſs, B. R.

GEORGE the third, &c. to the ſheriff of S. greeting: We command you, that you take John Smith, junior, if he may be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after to ſatisfy William Wood and Edward Evans of pounds, according to the form of the ſtatute in that caſe made and provided, adjudged to the ſaid William and Edward in our court before us for their coſts and charges in a certain action againſt the ſaid William and Edward at the ſuit of the ſaid John in a plea of treſpaſs, foraſmuch as the ſaid John hath not proſecuted his ſaid action; and have you there then this writ. Witneſs William lord Mansfield, at Weſtminſter, the day of , in the year of our reign.

LEE.

Fi. fa. into a county palatine, in debt, B. R.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff, that of the goods and chattels of John Halliwell in his bailiwick he cauſe to be levied three hundred and twenty pounds which Hugh Halliwell lately before us at W. recovered againſt him of debt as alſo ſixty-three ſhillings which to the ſaid Hugh lately in our ſaid court before us were adjudged for his damages which he ſuſtained as well on occaſion of detaining that debt as for his coſts and charges by him about his ſuit in that behalf laid out, whereof the ſaid John is convicted, as appears to us of record; and that you have that money before us at Weſtminſter on next after to render to the aforeſaid Hugh for his debt and damages aforeſaid; and have you there then this writ. Witneſs, &c. LEE.

Teſt. fi. fa. in debt, C. B.

GEORGE the Third, &c. to the ſheriff of Lincolnſhire, greeting: We command you, that you cauſe to be made of the goods and chattels in your bailiwick of John Wiche as well a certain debt of ſixty-ſeven pounds which John Wood in our court before our juſtices at Weſtminſter recovered againſt him, and alſo ſixty-three ſhillings which were adjudged to the ſaid John Wood in our ſaid court for his damages which he had ſuſtained

tained by occaſion of the detaining that debt; and have you that money before our juſtices at Weſtminſter on Friday next after the morrow of the Holy Trinity to render to the ſaid John Wood for his debt and damages aforeſaid, whereof the ſaid John Wiche is convicted; and whereupon our ſheriff of Middleſex ſent to our juſtices of a certain day now paſt that the ſaid J. W. has no goods or chattels in his bailiwick whereof he could cauſe to be made or levied the ſaid debt and damages, or any part thereof, whereas it is teſtified in our ſaid court that the ſaid J. W. has ſufficient goods and chattels in your ſaid county whereof the ſaid debt and damages may cauſe to be made and levied; and have you there this writ. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, &c.

A teſt. fi. fa. from Middleſex to Lancaſhire, in aſſumpſit by an attorney.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff, that he cauſe to be levied of the goods and chattels in his bailiwick of John Aſhworth twelve pounds which to Edward Parker, gentleman, one of the attornies of our court before us, were recovered for his damages which he ſuſtained as well on occaſion of the not performing certain promiſes and undertakings by the ſaid John made to the ſaid Edward as for his coſts and charges by him about his ſuit in that behalf laid out; and that he have that money before us at Weſtminſter on next after to render to the ſaid Edward for his damages, coſts, and charges aforeſaid, whereof the ſaid John is convicted, as appears to us of record; and whereupon our ſheriff of Middleſex hath certified to us at a certain day now paſt that the ſaid John hath no goods or chattels in his bailiwick whereof he can cauſe to be levied the damages, coſts, and charges aforeſaid, or any part thereof, whereas it is teſtified in our ſaid court that the ſaid John hath ſufficient goods and chattels in our ſaid county palatine whereof the damages, coſts, and charges aforeſaid may be levied; and have you then there this writ.

A teſt. fi. fa. from Lancaſter into Lincolnſhire, in aſſumpſit.

GEORGE the Third, &c. to the ſheriff of Lincolnſhire, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaſter, that by our writ under the ſeal of our ſaid county palatine in due manner to be made out, and to be directed to the ſheriff of our ſaid county palatine of L. he ſhould command our ſaid ſheriff that he ſhould cauſe to be made of the goods and chattels of A. B. in his bailiwick twenty-two pounds which C. D. lately in our court before us recovered againſt him for his damages which he hath ſuſtained as well by occaſion of the not performing certain promiſes and undertakings by him the ſaid A. B. to him the ſaid C D. as for his coſts and charges by him

about his ſuit in that behalf, whereof the ſaid A. B. is convicted, as appears to us of record; and that he ſhould have that money before us in our ſame court at a certain day now paſt to render to the ſaid C. D. for his damages aforeſaid; and our ſaid chancellor of our ſaid county palatine at that day returned to us that the ſaid ſheriff, in anſwer to the ſaid writ to him directed, had returned to him our ſaid chancellor, that the ſaid A. B. had no goods or chattels in his bailiwick upon which he could cauſe to be levied the damages aforeſaid, whereupon on the behalf of the ſaid C. D. it is ſufficiently atteſted in our court before us that the ſaid A. B. hath goods and chattels ſufficient within your bailiwick whereof you may cauſe the ſaid monies to be made: therefore we command you, that of the goods and chattels of A. B. in your bailiwick you cauſe to be made the ſaid twenty-two pounds, and that you have that money in our ſame court before us on next after to render to the ſaid C. D. for his damages aforeſaid; and have you there this writ. Witneſs, &c.

Superſedeas to diſcharge defendant out of the Fleet for not charging in execution in due time, C. B.

GEORGE the Third, &c. to our warden of our priſon of the Fleet, greeting: Whereas Henry Butt, on the day of 1767, rendered himſelf to our ſaid priſon before , one of our juſtices of our court of the bench, in diſcharge of his bail at the ſuit of John Smith for ſix hundred and thirty-three pounds debt upon demand, and becauſe the ſaid John hath not proceeded to charge the ſaid Henry in execution within two terms next after judgment obtained in the ſaid action, according to the rules of our ſaid court of the bench, and for that the ſaid Henry hath appeared in our ſaid court by Edward Parker his attorney at the ſuit of the ſaid John in the plea aforeſaid; we therefore command you, that if the ſaid Henry be detained in our ſaid priſon under your cuſtody for that and no other cauſe, that then you ſhall ſuffer him to go at large, as you will anſwer the contrary at you peril. Witneſs ſir John Eardley Wilmot, knight, at Weſtminſter, &c.

DICKENS.

Fi. fa. for the reſidue of a debt after part was levied and paid plaintiff on a former, B. R.

GEORGE the Third, &c. to the ſheriff of Middleſex, greeting: Whereas by our writ to you directed we lately commanded you, that of the goods and chattels of Mary Goodwin in your bailiwick you ſhould cauſe one hundred and ſixty-ſix pounds of debt which Thomas Low in our court before us at Weſtminſter recovered againſt her, as alſo ſixty-three ſhillings which to the ſame Thomas in our ſame court were adjudged for his damages which he ſuſtained as well on occaſion of detaining of that debt as for his coſts and charges by him about his ſuit in that behalf laid out and expended, whereof the ſaid Mary was convicted, as appears to us of record; and that you ſhould have that money before us at Weſtminſter on next after laſt paſt to render to the ſaid Thomas for his debt and damages aforeſaid; and you at that day returned to us at Weſtminſter, that by virtue of the ſaid writ

writ you had made of the goods and chattels of the ſaid Mary Goodwin twenty-ſeven pounds thirteen ſhillings and ſixpence, which monies you had paid to the ſaid Thomas in ſatisfaction of ſo much of his debt and damages aforeſaid, and that the ſaid Mary Goodwin had not any other or more goods or chattels in your bailiwick whereof you could cauſe to be made the reſidue of the debt and damages aforeſaid, or any part thereof; and whereas we have been given to underſtand that the ſaid Mary Goodwin hath now goods and chattels in your bailiwick ſufficient to ſatisfy the ſaid Thomas the reſidue of the debt and damages aforeſaid; we therefore command you, that of the goods and chattels of the ſaid Mary in your bailiwick you cauſe to be made one hundred and forty-one pounds nine ſhillings and ſixpence, the reſidue aforeſaid, and that you have that money before us at Weſtminſter on next after to render to the ſaid Thomas for the reſidue of his debt and damages aforeſaid; and have you there then this writ. Witneſs, &c. LEE.

Ca. ſa. to the ſheriff of Yorkſhire to levy the reſidue in an action of debt after a *fi. fa.* to him directed, and returned that he had cauſed part to be levied by the chief bailiff of the liberty of Pontefract, in his county, to whom the full execution of ſuch proceſs belonged.

GEORGE the Third, &c. to the ſheriff of Yorkſhire, greeting: Whereas we lately commanded Hugh Bethell, eſquire, late ſheriff of your county, that he ſhould cauſe to be levied of the goods and chattels of John Addy in his bailiwick one hundred and four pounds debt which John Mort lately in our court before us at Weſtminſter recovered againſt him as alſo ſixty-three ſhillings which in our court before us were adjudged to the ſaid John Mort for his damages which he had ſuſtained as well by occaſion of the detaining that debt as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid John Addy was convicted, as appears to us of record; and that he ſhould have that money before us at Weſtminſter on next after to render to the ſaid John Mort for the debt and damages aforeſaid; and whereas our ſaid late ſheriff of our county at that day returned to us, that by virtue of the ſaid writ to him directed he had commanded the chief bailiff of the liberty of the town of Pontefract, in your county, who had the full execution of all writs, precepts, and proceſs to be executed within that liberty, and the return thereof, to whom the execution of the writ wholly belonged, inaſmuch as that he could not execute the ſame in the county out of the ſaid liberty, which ſaid chief bailiff, to wit, Richard Town, gentleman, had returned, that by a certain mandate by our ſaid late ſheriff to him directed he had made of the goods and chattels of the within-named John Addy thirty-ſeven pounds fifteen ſhillings and twopence, which ſaid ſum he had cauſed to be paid to the ſaid John Mort, and further certified the within named John Addy had no other goods or chattels in his bailiwick whereof he could at preſent levy the remainder of the ſaid debt and damages; therefore we command you, that you take the ſaid John Addy if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after to

to ſatisfy the ſaid J. M. ſixty-nine pounds ſeventeen ſhillings and tenpence, the reſidue of the debt and damages aforeſaid; and have there then this writ. Witneſs, &c.

Teſtatum elegit out of Middleſex into the county palatine of Lancaſter, in aſſumpſit by bill.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas Thomas Fielding, lately in our court before us at Weſtminſter, by bill, without our writ, and by the judgment of the ſame court, recovered againſt Thomas Rhodes fifty-three pounds for his damages which he ſuſtained as well by occaſion of the not performing certain promiſes and undertakings lately made by the ſaid Thomas Rhodes to the ſaid Thomas Fielding as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid Thomas Rhodes is convicted, as appears to us of record; and afterwards the ſaid Thomas Fielding came in our court before us and choſe to be delivered to him all the goods and chattels of the ſaid Thomas Rhodes, except his oxen and beaſts of his plough, and alſo a moiety of all and ſingular his lands and tenements, to hold to him the ſaid goods and chattels, and alſo to hold the ſaid moiety of the ſaid lands and tenements to him and his aſſigns as his free tenements, according to the form of the ſtatute in that caſe made and provided, until the damages aforeſaid ſhould be levied; and whereupon our ſheriff of Middleſex hath certified to us at a certain day now paſt that the ſaid Thomas Rhodes hath no goods or chattels, lands or tenements, in his bailiwick whereof he could cauſe to be ſatisfied the damages, coſts, and charges aforeſaid, whereas it is teſtified in our ſaid court before us that the ſaid Thomas Rhodes hath goods and chattels, lands and tenements, in our ſaid county palatine whereof you may cauſe to be made the damages, coſts, and charges aforeſaid; therefore we command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff, that without delay he cauſe all the goods and chattels of the ſaid T. Rhodes in his bailiwick, except the oxen and beaſts of his plough, and alſo a moiety of all the lands and tenements of the ſaid Thomas Rhodes in his bailiwick, whereof the ſaid Thomas Rhodes, on the twenty-firſt day of May, in the year of Our Lord 1763, on which day the ſaid judgment was given, or at any time afterwards, was ſeiſed, to be delivered to the ſaid Thomas Fielding at a reaſonable price and extent, to hold to him the ſaid goods and chattels, and alſo to hold the moiety of the ſaid lands and tenements as his free tenement to him and his aſſigns, according to the form of the ſtatute, until the damages, coſts, and charges aforeſaid ſhall be thereof fully levied, and that he make appear to us at Weſtminſter on next after under his ſeal and the ſeals of thoſe by whoſe oath he ſhall make the extent and appraiſement, in what manner he ſhall have executed this our writ; and have there then this writ. Witneſs, &c.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas by our writ to you directed we lately commanded you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff, that he ſhould cauſe to be levied of the goods and chattels of John Howard in his bailiwick fifty-ſix pounds ten ſhillings which to Iſaac Henry, gentleman, were awarded for his damages which he ſuſtained as well on occaſion of the not performing certain promiſes and undertakings made by the ſaid John to the ſaid Iſaac as for his coſts and charges by him about his ſuit in that behalf laid out, and that he ſhould have that money before us at Weſtminſter on next after to render to the ſaid Iſaac for his damages aforeſaid, whereof the ſaid John was convicted, as appears to us of record; foraſmuch as our ſheriff of Middleſex had thereupon certified to us at a certain day then paſt that the ſaid John had no goods or chattels in his bailiwick whereof he could cauſe to be levied the damages, coſts, and charges aforeſaid, or any part thereof, and foraſmuch as it was teſtified in our ſaid court that the ſaid John had ſufficient goods and chattels in our ſaid county palatine whereof the damages, coſts, and charges aforeſaid might be levied; and you at that day returned to us at Weſtminſter, that by virtue of the ſaid writ to you directed and delivered by another writ under the ſeal of the ſaid county palatine accordingly directed to the ſheriff of the ſame county, you commanded the ſame ſheriff as by the ſaid writ ſo to you directed you was commanded, and that the ſaid ſheriff, to wit, Thomas Brudyle, eſquire, in anſwer thereto, had returned to you, that by virtue of the ſaid writ to him directed he had cauſed to be levied of the goods and chattels of the ſaid John one pound three ſhillings, and that he had the ſame money ready before us at the day and place therein contained, as by the ſaid writ he was commanded; and that the ſaid John had no goods or chattels in his bailiwick whereby he could levy the reſidue of the damages and coſts therein mentioned, or any part thereof, as by the ſame writ he was commanded; and the reſidue of the damages and coſts aforeſaid ſtill remain unſatisfied: we therefore command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff, that he cauſe to be levied of the goods and chattels of the ſaid John in his bailiwick fifty-five pounds ſeven ſhillings, being the reſidue of the damages and coſts aforeſaid, and that you have that money before us at Weſtminſter on next after to render to the ſaid Iſaac for the ſaid reſidue of the damages and coſts aforeſaid; foraſmuch as the ſheriff of Middleſex hath certified to us at a certain day now paſt that the ſaid John hath no goods or chattels in his bailiwick whereof he can cauſe to be made the ſame, or any part thereof, and foraſmuch as it is ſufficiently teſtified in our ſaid court before us that the ſaid John hath ſufficient goods and chattels

Teſt. fi. fa. out of Middleſex into Lancaſhire, grounded upon the return of a former *teſt. fi. fa.* out of Middleſex into Lancaſhire, B. R.

tels in our ſaid county palatine whereof the ſaid reſidue of the damages and coſts aforeſaid may be levied; and have you there then this writ. Witneſs William lord Mansfield, at Weſtminſter, &c.

LEE.

A ſubpœna duces tecum of a will in ejectment.

GEORGE the Third, &c. to , greeting: We command and ſtrictly enjoin you, that all other things being ſet aſide, and every excuſe ceaſing, you be in your proper perſon before our juſtices aſſigned to hold aſſizes at New Sarum in and for the county of Wilts on the day of this inſtant July to teſtify the truth according to your knowledge in a certain action in our court before our juſtices at Weſtminſter depending between A. B. plaintiff, and C. D. defendant, in a plea of treſpaſs and ejectment, and at the aforeſaid day to be tried by a jury of the county, and that you then and there bring, produce, and exhibit the original will of G. G. late of E. aforeſaid, gentleman, deceaſed, bearing date the day of 1766; and hereof you are not to fail, on pain of one hundred pounds. Witneſs Bowles, the thirteenth of December 1795.

Bailable *capias quare clauſum fregit* into Lancaſhire.

GEORGE the Third, &c. to the ſheriff of Lancaſhire, greeting: We command you, that you take John Harrocks, late of Quarlton, in your county, drover, and John Kay, late of Walmſley, in your county, yeoman, if they ſhall be found in your bailiwick, and them ſafely keep, ſo that you may have their bodies before our juſtices at Lancaſter on Wedneſday the ſeventh day of January next enſuing to anſwer George Weatherhead of a plea, wherefore with force and arms the cloſe of the ſaid George they did break, and other wrongs to him did, to the great damage of the ſaid George, and againſt our peace, as it is ſaid; and have you there this writ. Witneſs ſir William Adams, knight, at Weſtminſter, the ſixteenth day of Auguſt, in the twenty-ninth year of our reign.

BOWLES.

Bail for ten pounds fourteen ſhillings ſeveralty by attorney filed.

By virtue of this writ to me directed and delivered I have taken the within-named John Harrocks and John Kay, whoſe bodies I have ready before the juſtices within-named at the day and place within contained, as I am within commanded.

THO. JOHNSON, Eſq. Sheriff.

Teſt. ca ſa. from Lancaſhire to Cheſhire, in aſſumpſit, B. R.

GEORGE the Third, &c. to our chamberlain of our county palatine of Cheſter, or to his deputy there, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaſter, that by our writ under the ſeal of our ſaid county palatine in due manner to be made out, and to be directed to the ſheriff of our ſaid county palatine of Lancaſter, he ſhould command

mand the ſaid ſheriff, that he ſhould take William Acton if he ſhould be found in his bailiwick, and him ſafely keep, ſo that he might have his body before us at a certain day now paſt to ſatisfy George Fletcher of ſeventeen pounds ten ſhillings which the ſaid George lately in our court before us at Weſtminſter recovered againſt the ſaid William for his damages which he ſuſtained as well by occaſion of the not performing certain promiſes and undertakings made by the ſaid William to the ſaid George as for his coſts and charges by him about his ſuit in that behalf laid out, whereof the ſaid William is convicted, as appears to us of record; and our ſaid chancellor of our ſaid county palatine of Lancaſter at that day returned to us that the ſaid ſheriff, in anſwer to the ſaid writ to him directed, had returned to him our ſaid chancellor that the ſaid William was not found in his bailiwick, whereupon on the behalf of the ſaid George it is ſufficiently atteſted in our court before us that the ſaid William runs up and down and ſecretes himſelf in your county; therefore we command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſaid ſheriff, that he take the ſaid William Acton if he may be found in his bailiwick, and him ſafely keep, ſo that he may have his body before us at Weſtminſter on next after to ſatisfy the ſaid George of his damages aforeſaid; and have you there this writ. Witneſs William lord Mansfield, at Weſtminſter, the twenty-eighth day of November, in the ſeventeenth year of our reign. LEE.

Ca. ſa. on a judgment in debt on the ſtatute for killing game.

GEORGE the Third, by the grace of God, of Great Britain, &c. to the ſheriff of Wiltſhire, greeting: We command you, that you take James Carter if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after to ſatisfy ſir Richard Bolt Hoare, baronet, ninety pounds debt which the ſaid ſir Richard lately in our court before us at Weſtminſter recovered againſt him the ſaid James as alſo ten pounds ten ſhillings which in our ſaid court before us were adjudged to the ſaid ſir Richard for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid James is convicted, as appears to us of record; and have you then there this writ. Witneſs Lloyd lord Kenyon, at Weſtminſter, the day of , in the thirty-firſt year of our reign.

Double coſts.

This writ ſhould correſpond with the judgment.

Fi. fa. on a judgment for defendant in ejectment as in caſe of a nonſuit for not going to trial according to rule of court.

GEORGE the Third, by the grace of God, &c. to the ſheriff of Somerſetſhire, greeting: We command you, that you cauſe to be levied of the goods and chattels in your bailiwick of William

liam Maine twenty-five pounds which were awarded to Hannah Norman in our court before us at Weſtminſter according to the form of the ſtatute in ſuch caſe made and provided, for her expences and coſts which ſhe had been put unto in her defence in a certain plea of treſpaſs and ejectment proſecuted in our ſaid court before us by the ſaid William againſt the ſaid Hannah, wherein the ſaid William became nonſuit, whereof he is convicted, as appears to us of record; and have you that money before us at Weſtminſter on Wedneſday next after three weeks from the day of the Holy Trinity to render to the ſaid H. for her expences and coſts aforeſaid; and have you there then this writ. Witneſs, &c.

Fi. fa. in an act on by bill in aſſumpſit againſt the goods after defendant had been taken and committed on a *ca. ſa.* and diſcharged out of cuſtody on the inſolvent debtor's act, in Lancaſter.

GEORGE the Third, by the grace of God, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas John Whitfield lately in our court before us at Weſtminſter, by bill, without our writ, and by the judgment of the ſaid court, recovered againſt Thomas Lowe, gentleman, one of the attornies of our court before us, the ſum of ſeventy-two pounds for his damages which he had ſuſtained as well by reaſon of the non-performance of certain promiſes and undertakings made by the ſaid T. L. to the ſaid J. W. as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid T. L. is convicted, as appears to us of record: And whereas though ſuch judgment was given thereupon as aforeſaid, and though the ſaid T. L. was afterwards taken and detained in priſon at the ſuit of the ſaid J. W. in execution of the ſaid judgment, yet the ſaid T. L. was afterwards diſcharged out of ſuch cuſtody under and by virtue of a certain act of parliament paſſed in the thirty-ſecond year of the reign of his late majeſty king George the Second, intituled, "An Act for the Relief of Debtors, &c." [take the title verbatim from the act], and the ſaid damages are ſtill wholly unpaid: And whereas it is ordained by the ſaid ſtatute, that notwithſtanding any diſcharge obtained by virtue thereof for the perſon of any ſuch priſoner ſo diſcharged, the judgment obtained againſt him ſhall continue and remain in force and execution, and may at any time be taken out thereon againſt the lands, tenements, rents, or hereditaments, goods or chattels of any ſuch priſoner (other than and except his wearing apparel and bedding for himſelf and family, and the neceſſary tools for the uſe of his trade or occupation, not exceeding ten pounds in value in the whole), as if he had never been before arreſted, taken in execution, and releaſed out of priſon by virtue of or under the ſaid act; we therefore command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſaid county, you command the ſaid ſheriff, that he cauſe to be levied of the goods and chattels in his bailiwick of the ſaid T. L. (other than and except his neceſſary wearing apparel and bedding for himſelf and family, and the neceſſary tools for the

uſe

uſe of his trade and occupation, not exceeding ten pounds in value in the whole) the ſaid ſum of ſeventy-two pounds for the damages, coſts, and charges aforeſaid, ſo by the ſaid J. W. recovered in manner and form aforeſaid; and have the ſaid money before us on Tueſday next after the morrow of All Souls to render to the ſaid J. W. for his damages aforeſaid; and have you there then this writ. Witneſs, &c.

Special *capias* upon a *præcipe quod reddat*, in debt.

GEORGE the Third, &c. to the ſheriff of , greeting: We command you, that you take A. B. late of , in your county, gentleman, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have him before us on wheresoever we ſhall then be in England to anſwer to C. D. in a plea that he render to the ſaid C. D. pounds which he owes and unjuſtly detains, as it is ſaid; and have you then there this writ. Witneſs , at Weſtminſter, the day of , in the year of our reign.

[If not bailable, add notice as in common *latitat*, only after ſeventh November 1781 (or as the day is) add "whereſoever the lord the king ſhall then be in England," and leave out "at Weſtminſter."]

Teſt. ca. and original out of London into Lancaſter, in covenant on charter-party, B. R.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff, that he take A. B. late of , if he may be found in his bailiwick, and him ſafely keep, ſo that he may have his body before whereſoever, &c. to anſwer C. D. in a plea that he keep with the ſaid C. D. the covenant made between them, according to the force, form, and effect of a certain deed or charter party of affreightment thereof made between them, and unleſs, &c. and for that our ſheriffs of London returned to us at a certain day now paſt that the ſaid A. B. is not found in their bailiwick; whereupon on the behalf of the ſaid C. D. it is ſufficiently atteſted in our court before us that the aforeſaid A. B. lurks and wanders up and down and ſecretes himſelf in our ſaid county palatine; and have you there this writ. Witneſs, &c.

Capias on a judgment *quod comput. et* in an action of account.

GEORGE the Third, &c. to the ſheriff of , greeting: We command you, that you take C. D. if he may be found in you bailiwick, and ſafely keep him, ſo that you may have his body before us at Weſtminſter on next after to account with A. B. from the time that he became the bail of the ſaid A. B. whereof the ſaid C. D. is convicted; and that you have, &c. Witneſs, &c.

(a) Capias in Account.

GEORGE

Attachment of contempt, C.B.

GEORGE the Third, &c. to the ſheriff of , greeting: We command you, that you attach A. B. ſo that you have him before our juſtices at Weſtminſter on to anſwer C. D. of and concerning thoſe things which ſhall be then objected againſt him on our behalf; and have you then there this writ. Witneſs, &c.

Indorſed by an order of court, dated , for the non payment of twenty pounds. You take the order to the prothonotary, who ſigns it on ſight of the order. W. and B.

The ſheriff can take no bail.

Attachment againſt the ſheriffs for not bringing in the body.

GEORGE the Third, &c. to the coroner of the city of , greeting: We command you, that you attach A. B. and C. D. ſheriffs of our ſaid city, ſo that you may have them before us at Weſtminſter on next after to anſwer to us for certain treſpaſſes and contempts brought againſt them in our court before us; and that you have then there this writ. Witneſs, &c.

By the Court, BURROW.

Indorſed by Rule of Court, H. Clerk in Court.

Attachment againſt the ſheriff for not bringing in the body.

GEORGE the Third, &c. to the coroners of our county of Middleſex, greeting: We command you, that you attach A. B. and C. D. knight, ſheriff of our ſaid county of Middleſex, ſo that you have them before our juſtices at Weſtminſter to anſwer for certain treſpaſſes and contempts brought againſt him in our court of the bench at Weſtminſter aforeſaid; and that you have then there this writ. Witneſs, &c.

Indorſed by rule of court, dated the day of , between E. F. plaintiff, and G. H. defendant, for not bringing into this court the body of the defendant purſuant to a former rule.

November, &c. W. and D.

Teſtatum attachmen of privilege, C. B.

GEORGE the Third, &c. to the ſheriff of , greeting: We command you, that you take A. B. ſo that you may have him before our juſtices at Weſtminſter to anſwer C. D. gentleman, one of the attornies of the court of the bench, according to the liberties and privileges of the ſame court for ſuch attornies and other miniſters of the ſame bench from time out of mind uſed and approved of in the ſame of a plea of treſpaſs on the caſe; *and whereupon the ſheriff of Middleſex returned to our juſtices at Weſtminſter at a certain day now paſt that the ſaid A. B. is not found in his bailiwick, whereas it is ſufficiently teſtified in our court of the bench that the ſaid A. B. lurks, lies hid, and wanders up and down in your county; and have you there this writ. Witneſs, &c.*

This is left out in common attachments.

If bail, an *ac etiam.*

GEORGE

GEORGE the Third, &c. greeting: We command you, that you take A. C. widow, if ſhe ſhall be found in your bailiwick, and her ſafely keep, ſo that you may have her body before our juſtices at Weſtminſter on the morrow of the Aſcenſion of Our Lord to ſatisfy R. W. late of , in your county, gentleman, for , which in our court before our juſtices at Weſtminſter were awarded to the ſaid R. W. by the direction of our ſame juſtices at Weſtminſter, according to the form of the ſtatute in that caſe made and provided, for his expences and coſts which he ſuſtained by reaſon of the ſaid A. C. not proſecuting her writ with effect in a certain plea of treſpaſs ſued out by the ſaid A. C. againſt the ſaid R. W. in our ſame court, whereof ſhe is convicted; and have you there this writ. Witneſs, &c.

Ca. ſa. on a nonſuit, in treſpaſs, C. B.

GEORGE the Third, &c. to the chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff, that he take W. H. if he may be found in his bailiwick, and ſafely keep him, ſo that you may have his body before us at Weſtminſter on next after to ſatisfy J. B. for thirty-three ſhillings according to the form of the ſtatute in ſuch caſe made and provideo adjudged to the ſaid J. B. in our court before us for his coſts and charges in a certain action againſt the ſaid J. B. at the ſuit of the ſaid R. W. in a plea of treſpaſs, foraſmuch as the ſaid R. W. hath not proſecuted his ſaid action; and have you there, &c. Witneſs, &c.

Capias ad ſatisfaciendum on a *non. proſ.* to Lancaſter, B. R.

GEORGE the Third, &c. to the ſheriff of , greeting: We command you, that you take J. W. the younger if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after to ſatisfy E. L. widow, executrix of the laſt will and teſtament of J. L. deceaſed, for eighteen pounds which the ſaid J. L. in his lifetime lately in our court before us at Weſtminſter recovered againſt the ſaid J. W. for his damages which he had ſuſtained as well by reaſon of the not performing ſeveral promiſes and undertakings lately made by the ſaid J. W. to the ſaid J. L. as for his coſts and charges by him laid out about his ſuit in that behalf, whereof the ſaid J. W. is convicted, as appears to us of record; and whereupon it is conſidered in our ſame court before us that the ſaid E. L. have her execution againſt the ſaid J. W. for the damage aforeſaid by the default of the ſaid J. W.; and have you, &c. Witneſs, &c.

Capias ad ſatisfaciendum at ſuit of an executrix after a *ſcire facias* and judgment revived, in aſſumpſit, B. R.

GEORGE the Third, &c. to, &c.: We command you, that you take A. B. late of , yeoman, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before

Ca. ſa. after nonſuit on a writ of error on a judgment in B. R. by original.

before us on wheresoever we shall then be in England, to answer D. E. widow, and executrix of the last will and testament of H. E. deceased, sixty-three pounds for her damages which she had sustained as well by occasion of not performing certain promises and undertakings made by the said A. B. to the said H. E. in his lifetime as for her the said D. E.'s costs and charges by her about her suit in that behalf laid out, whereof the said A. B. is convicted, as by inspection of the record and proceedings thereof, which by virtue of our writ for correcting error prosecuted by the said A. B. of and upon the premises we lately caused to be brought into our court before us, as it appeareth to us of record; and also seven pounds ten shillings which in our said court before us, according to the form of the statute in such case made and provided, were adjudged to the said D. E. for her costs and damages which she had sustained by reason of the delay of the execution of the said judgment by means of the prosecuting our said writ for correcting error prosecuted by the said A. B. of and upon the premises as aforesaid, whereupon the said A. B. is nonsuited, as it also appeareth to us of record; and have you there this writ. Witness, &c.

Capias ad satisfaciendum in debt after judgment by warrant of attorney, B. R.

GEORGE the Third, &c. to the sheriff of , greeting: We command you, that you take W. K. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on next after to satisfy B. B. of one hundred pounds debt which the said B. B. lately in our court before us recovered against him, and also sixty-three shillings which to the said B. B. in our same court before us were adjudged for his damages which he sustained as well by reason of the detention of that debt as for his costs and charges laid out by him about his suit in that behalf, whereof the said W. K. is convicted, as appears to us of record; and have you there this writ. Witness, &c.

Ca. sa. upon a verdict for the plaintiff in assumpsit, B. R.

GEORGE the Third, &c. to the sheriff of , greeting: We command you, that you take S. L. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at Westminster on next after to satisfy R. C. of thirty pounds for his damages which he has sustained as well by reason of the not performing certain promises and undertakings made by the said S. L. to the said R. C. as for his costs and charges laid out by him about his suit in that behalf, whereof the said S. L. is convicted, as appears to us of record; and have you then there this writ. Witness, &c.

Ca. sa upon a nonsuit in tort, C. B.

GEORGE the Third, &c. to the sheriff of , greeting: We command you, that you take W. C. if he shall be found in your

your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter on the morrow of the Holy Trinity to ſatisfy W. B. late of , in your county, eſquire, and S. G. late of , eſquire, for thirteen pounds ten ſhillings which to the ſaid W. B. and S. G. in our court before our juſtices at Weſtminſter, by the direction of our ſame juſtices, was adjudged for their coſts and charges which they have ſuſtained, for that the ſaid W. C. a certain writ in a plea of treſpaſs upon the caſe hath unjuſtly proſecuted againſt the ſaid W. B. and S. G. as appears by a certain jury of the county thereupon taken, whereof he is convicted; and have you, &c. Witneſs, &c.

Ca. ſa. on a *non proſ.* for not declaring, in treſpaſs, C. B.

GEORGE the Third, &c. to, &c.: We command you, that you take T. M. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter from the day of, &c. to ſatisfy J. W. late of , in your county, yeoman, A. E. late of , and H. H. late of , and K. H. his wife, of thirty-three ſhillings and fourpence which were adjudged to the ſaid J. W. A. E. H H. and K. H. his wife in our court before our juſtices at Weſtminſter, through the direction of our ſaid juſtices, for their coſts and charges which they have ſuſtained in a certain plea of treſpaſs lately brought in our ſaid court by the ſaid T. M. againſt the ſaid J. W. A. E. &c. and may according to the form of the ſtatute in that caſe lately made and provided againſt parties plaintiffs who do not proſecute their writs in ſuch like pleas, or ſhould be precluded in the ſame, whereof the ſaid T. M. is convicted; and have you there, &c. Witneſs, &c.

Ca. ſa at ſuit of an executor of an executrix after a *ſci fa.* to revive, in debt, C. B.

GEORGE the Third, &c. to, &c.: We command you, that you take G. C. late of , clerk, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices as Weſtminſter on next after to ſatisfy M. R. executor of the laſt will and teſtament of D. Y. deceaſed, who was executrix of G. H. deceaſed, as well a certain debt of four hundred pounds which the ſaid James in his lifetime lately in our court before our juſtices at Weſtminſter recovered againſt him, as alſo fifty pounds which in our ſaid court were adjudged to the ſaid James in his lifetime for his damages which he had ſuſtained by reaſon of detaining the ſaid debt, whereof the ſaid George is convicted; and whereupon it is conſidered in our ſaid court that the ſaid M. R. have his execution againſt the ſaid G. C. for the debt and damages aforeſaid by the default of the ſaid G. C.; and have you, &c. Witneſs, &c.

GEORGE

Ca. ſa. upon a *non prof.* for not entering iſſue, in caſe, C. B.

GEORGE the Third, &c. to, &c.: We command you, that you take T. M. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter from next after to ſatisfy J. M. late of , in the ſaid county of , yeoman, of fifty-ſix ſhillings and eightpence which in our court before our juſtices at Weſtminſter was adjudged to the ſaid J. M. for his coſts and charges which he hath ſuſtained in a certain plea of treſpaſs upon the caſe lately brought in our ſaid court by the ſaid T. M. againſt the ſaid J. M. according to the form of the ſtatute in that caſe lately made and provided againſt parties plaintiffs who do not proſecute their writs in ſuch like pleas, or ſhould be precluded in the ſame, whereof the ſaid T. M. is convicted; and have you there, &c. Witneſs, &c.

Ca. ſa. in aſſumpſit againſt defendant in order to make bail liable, C. B.

GEORGE the Third, &c. to, &c.: We command you, that you take M. C. late of , in your county, yeoman, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter from in to ſatisfy M. J. for forty pounds which in our court before our juſtices at Weſtminſter were adjudged to the ſaid M. J. for his damages which he has ſuſtained by reaſon of the ſaid M. C. not performing ſeveral promiſes and undertakings made by the ſaid M. C. to the ſaid M. J. at , in your county, whereof he is convicted; and have you, &c. Witneſs, &c.

Ca. ſa. upon a *non prof.* for not entering the iſſue by original, in tort, C. B.

GEORGE the Third, &c. to, &c.: We command you, that you take T. M. if he ſhall be found in your bailiwick, ſo that you may have his body before our juſtices at Weſtminſter from the day of Saint Michael in three weeks to ſatisfy J. M. late of , in the county of , yeoman, of fifty-ſix ſhillings and eightpence which in our court before our juſtices at Weſtminſter were adjudged to the ſaid J. M. for his coſts and charges which he hath ſuſtained in a certain plea of treſpaſs on the caſe lately brought in our ſaid court by the ſaid T. M. againſt the ſaid J. M. according to the form of the ſtatute in that caſe lately made and provided againſt parties plaintiffs who do not proſecute their writs in ſuch like pleas, or ſhould be precluded in the ſame, whereof the ſaid T. M. is convicted; and have you there this writ. Witneſs, &c.

Ca. ſa. in aſſumpſit againſt an attorney after judgment ſigned, C. B.

GEORGE the Third, &c. to, &c.: We command you, that you take P. M. gentleman, one of the attornies of our court of the bench at Weſtminſter, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter to ſatisfy J. V. clerk, for fifty-five ſhillings and tenpence which in our court before our juſtices at

Weſtminſter were adjudged to the ſaid J. V. for his damages which he has ſuſtained by reaſon of the ſaid premiſes for the not performing ſeveral promiſes and undertakings made by the ſaid P. M. to the ſaid J. V. at , in your county, whereof he is convicted; and have, &c. Witneſs, &c.

GEORGE the Third, &c. to, &c.: Whereas we lately commanded our ſheriff of M. that he ſhould take A. H. eſquire, if he ſhould be found in his bailiwick, and that he ſhould ſafely keep him, ſo that he might have his body before us at W. at a certain day now paſt to ſatisfy M. S. of three hundred pounds debt which the ſaid M. S. had lately in our court before us recovered againſt him, and alſo ſixty-three ſhillings which to the ſaid M. S. in our ſame court before us were adjudged for his damages which he had ſuſtained as well by reaſon of the detention of that debt as for his coſts and charges laid out by him about his ſuit in that behalf, whereof the ſaid A. H. is convicted, as appears to us of record; and our ſaid ſheriff of Middleſex at that day returned to us that the aforeſaid A. H. is not found in his bailiwick, whereupon on the behalf of the ſaid M. S. it is ſufficiently atteſted in our court before us that the ſaid A. H. wanders about and lurks up and down in your county; therefore we command that you take the ſaid A. H. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at W. on next after to ſatisfy the ſaid M. S. his debt and damages aforeſaid; and have you there, &c. Witneſs, &c. *Teſt. ca. ſa.* in debt.

GEORGE the Third, &c. to, &c.: We command you, that you take M. B. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at W. on next after to ſatisfy M. T. for ſixteen pounds ten ſhillings which lately in our court before us were adjudged to the ſaid M. T. for his damages which he has ſuſtained as well by reaſon of the ſaid M. B.'s not performing ſeveral promiſes and undertakings lately made by the ſaid M. B. to the ſaid M. T. as for his coſts and charges laid out by him and about his ſuit in that behalf, whereof the ſaid M. B. is convicted, as appears to us of record; and whereof our ſheriff of hath made a return to us at a certain day now paſt that the ſaid M. B. is not found in his bailiwick, whereas it is teſtified in our court before us that the ſaid M. B. wanders up and down and ſecretes himſelf in your county; and have you there this writ. Witneſs, &c. *Ca. ſa.* in *aſſumpſit* after judgment and *teſtatum* thereon.

GEORGE the Third, &c. to, &c.: We command you, that you take M. P. late of , in your county, yeoman, if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us wherefoever we ſhall then be in England *Ca. ſa.* in *aſſumpſit* upon judgment affirmed in error.

in three weeks from the day of Saint Michael to ſatisfy R. G. as well ſixteen pounds ten ſhillings for damages which the ſaid R. G. lately in our court before Alexander lord Loughborough and his brethren, juſtices of the bench, by our writ, and by the judgment of the ſame court, recovered againſt him as well by occaſion of the not performing certain promiſes and undertakings to the ſaid R. G. lately made by the ſaid M. P. as for his coſts and charges by him about his ſuit in this behalf expended, and alſo adjudged to the ſaid R. G. in our court before us according to the form and effect of the ſtatute in that caſe lately made and provided for his coſts, charges, and damages which he has ſuſtained by reaſon of the delay of execution of the aforeſaid judgment on pretence of proſecuting our writ of error by the ſaid M. P. unjuſtly executed of and upon the premiſes in our court before us, whereof the ſaid M. P. is convicted, as by inſpection of the record and proceedings thereon, which for certain cauſes we lately cauſed to be brought before us, appears of record; and whereupon in our ſame court before us it is conſidered that the ſaid R. G. have his execution thereon; and have you then there, &c. Witneſs, &c.

Teſt. ca. ſa. at ſuit of an executor of an executrix, C. B.

GEORGE the Third, &c. to, &c.: We command you, that you take G. C. late of if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at W. from to ſatisfy W. N. eſquire, executor of the laſt will and teſtament of M. Y. widow, deceaſed, who was executrix of the laſt will and teſtament of J. Y. deceaſed, as well a certain debt of four hundred pounds which the ſaid J. Y. in his lifetime in our court before our juſtices at W. againſt him recovered as alſo fifty ſhillings which in our ſaid court were adjudged to the ſaid J. Y. in his lifetime for his damages which he had ſuſtained by reaſon of detaining the ſaid debt, whereof the ſaid George is convicted; and whereupon it is conſidered in our court that the ſaid W. N. have his execution againſt the ſaid G. for the debt and damages aforeſaid by the default of the ſaid G. and whereof our ſheriff of hath made a return to our juſtices at W. at a certain day now paſt that the ſaid G. C. is not found in his bailiwick, whereas it is teſtified in our ſaid court that the ſaid G. C. wanders up and down and ſecretes himſelf in your county; and have you there this writ. Witneſs, &c.

Teſt. ca. ſa. in *aſſumſit* after a *fi. fa.* againſt an executrix, and *nulla bona* and *deviſtavit* returned, C. B.

GEORGE the Third, &c. to, &c.: Whereas we lately commanded our late ſheriff of that he ſhould cauſe to be made of the goods and chattels which were of H. M. deceaſed, at the time of his death in the hands and cuſtody of M. M. late of , in your county, widow, executrix of the laſt will and teſtament of the ſaid H. her late huſband, deceaſed, in his bailiwick, eighteen pounds which M. S. lately in our court before our juſtices at W.

recovered againſt her for his damages which he had ſuſtained as well by reaſon of the non-performing ſeveral promiſes and undertakings lately made by the ſaid H. M. in his lifetime to the ſaid M. S. as for his coſts and charges laid out by him about his ſuit in that behalf, if the ſaid M. M. had ſo many goods and chattels which were of the ſaid H. at the time of his death in her hands to be adminiſtered, and if ſhe had not ſo many goods in her hands to be adminiſtered, then that he ſhould cauſe nine pounds, part of the damages aforeſaid, to be levied of the proper goods and chattels of the ſaid M. and that he ſhould have the ſaid M. M. before our juſtices at W. on laſt paſt to be paid to the ſaid M. S. for his damages aforeſaid, whereof the ſaid M. M. is convicted; and whereupon our ſaid late ſheriff at that day returned to our ſaid juſtices at W. that the ſaid M. M. had no goods and chattels which were of the ſaid H. M. at the time of his death in her hands to be adminiſtered in his bailiwick whereof the ſaid damages, or any parcel thereof, could be made or levied; and alſo that the ſaid M. M. had not any of her own proper goods or chattels in his bailiwick whereof nine pounds of the ſaid damages, or any part thereof, could be made or levied; and our ſaid late ſheriff returned that divers goods and chattels which were of the ſaid H. M. at the time of his death to the value of the ſaid damages came to the hands of the ſaid M. M. after the death of the ſaid H. M. to be adminiſtered, which ſame goods and chattels the ſaid M. M. had eloigned, waſted, and converted to her own proper uſe; therefore we command you, that you take the ſaid M. M. if ſhe may be found in your bailiwick, and that you ſafely keep her, ſo that you may have her body before our juſtices at W. in eight days of Saint Hilary to ſatisfy the ſaid M. S. his damages aforeſaid; and have, &c. Witneſs, &c.

GEORGE the Third, &c: Whereas [recite the *fieri facias* and return exactly as in the laſt, till] had eloigned, waſted, and converted to her own proper uſe; and whereas we thereupon commanded our ſheriff of that he ſhould take the ſaid M. M. if ſhe might be found in his bailiwick, and that he ſhould ſafely keep her, ſo that he might have her body before our ſaid juſtices at W. in to ſatisfy the ſaid M. S. his damages aforeſaid; and whereupon our ſaid ſheriff of at that day returned to our ſaid juſtices at W. that the ſaid M. M. is not found in his bailiwick, whereas it is ſufficiently atteſted in our ſaid court that the ſaid M. M. wanders up and down in your county; therefore we command you, that you take the ſaid M. M. if ſhe may be found in your bailiwick, and her ſafely keep, ſo that you may have her body before our juſtices at W. from the day of Eaſter in to ſatisfy the ſaid M. S. his ſaid damages; and have, &c. Witneſs, &c.

Teſt. ca. ſa. againſt the executrix after the preceding *ca. ſa.* returned *non eſt inventus.*

Capias ad satisfaciendum on a judgment of nonsuit for not proceeding to trial, C. B.

GEORGE the Third, &c. to, &c. greeting: We command you, that you take J. M. gentleman, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at W. in eight days of Saint Hilary to satisfy M. A. late of , in your county, yeoman, for twenty pounds which were adjudged to the said M. A. in our court before our justices at W. by the directions of the same justices according to the form of the statute in that case made and provided for his costs and charges which he hath sustained, for that the said J. M. hath not prosecuted his writ by him the said J. M. obtained in our court against the said M. A. in a certain plea of debt upon demand, whereof the said J. M. is convicted; and have you, &c. Witness, &c.

Ca. sa. on a *non pros.* for want of plaintiff's replying to defendant's plea, B. R.

GEORGE the Third, &c. to, &c.: We command you, that you take J. S. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at W. on next after to satisfy J. M. thirty-three shillings which to the said J. M. in our court before us at W. according to the form of the statute in such case made and provided were adjudged for his costs and charges by him sustained in and about his defence in a certain action of trespass on the case lately prosecuted in our same court before us against him by the said J. S. because the said J. S. did not afterwards prosecute that action, whereof the same J. S. is convicted, as appears to us of record; and have, &c.

Ca. sa. after a *non pros.* in error against an attorney on a judgment in C. B. and error brought in B. R. the plaintiff in error not having paid the transcript money, C. B.

GEORGE the Third, &c. to the sheriff, &c.: We command you, that you take R. S. one of the attornies of our court of the bench at Westminster present here in court in his own proper person if he shall be found in your bailiwick, and him safely keep, so that you may have his body before our justices at W. on next after , to satisfy J. W. for nineteen pounds ten shillings which in our court before our justices at W. were adjudged to the said J. W. for his damages which he has sustained by reason of the said R. S.'s not performing several promises and undertakings made by the said R. S. to the said J. W. at W. in your county, whereof the said R. S. is convicted, the issuing out the writ of error in any wise notwithstanding; and have you, &c. Witness, &c.

No costs till after the record is removed; that is, till after plaintiff in error has transcribed.

Ca. sa. for the residue where part had been levied by a *fi. fa.* C. B.

GEORGE the Third, &c. to, &c.: Whereas we lately by our writ commanded you that you should cause to be levied of the goods and chattels of H. B. late of , yeoman, as well a certain debt of twenty-four pounds fifteen shillings and fourpence which

which T. J. had recovered againſt him in our court before our juſtices at Weſtminſter, and alſo fifty ſhillings which in our ſaid court were awarded to the ſaid T. J. for his damages which he ſuſtained by reaſon of the detaining the ſaid debt, and that you ſhould have that money before our juſtices at Weſtminſter in laſt paſt to render to the ſaid T. J. for the debt and damages aforeſaid, whereof the ſaid H. B. is convicted; and whereupon you on that day returned to our juſtices at Weſtminſter that by virtue of the ſaid writ to you directed you had levied of the goods and chattels of the ſaid H. B. the ſum of , part whereof you had paid unto J. M. for three-quarters of a year's rent due to him as landlord of the premiſes whereon the ſaid defendant's goods and chattels were ſeized and taken in execution, and you had, at the requeſt of the ſaid T. J. detained other part thereof for the diſcharge of the poundage and other expences of levying, and thirteen ſhillings and fourpence reſidue thereof you had paid to the ſaid T. J. in ſatisfaction of ſo much of the debts and damages aforeſaid; and you further certified, that the ſaid H. B. had no other or more goods or chattels in your bailiwick whereof you could levy the reſidue of the debt and damages aforeſaid, or any part thereof; therefore we command you, that you take the ſaid H. B. if he ſhall be found in your bailiwick, and that you ſafely keep him, ſo that you may have his body before our juſtices at Weſtminſter from the day of the Holy Trinity in three weeks to ſatisfy the ſaid T. J. pounds, the reſidue of the debt and damages aforeſaid; and have you there, &c. Witneſs, &c.

Teſt. ca. ſa. from London to the county palatine of Lancaſter upon a nonſuit in treſpaſs for not proceeding to trial, 14. Geo. 3. C. B.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas we lately commanded our ſheriffs of L. that they ſhould take J. S. if he might be found in their bailiwick, and him ſafely keep, ſo that they might have his body before our juſtices at Weſtminſter at a certain day now paſt to ſatisfy T. F. late of , in the county palatine of Lancaſter, chapman, of pounds which to the ſaid T. F. in our court before our juſtices at Weſtminſter, by the direction of our ſame juſtices, according to the form of the ſtatute in that caſe made and provided, were adjudged for his coſts and charges which he had ſuſtained, for that the ſaid J. S. had not proſecuted his writ by him the ſaid J. S. obtained in our ſaid court againſt the ſaid T. F. in a certain plea of treſpaſs and aſſault, whereof the ſaid J. S. is convicted; and our ſaid ſheriffs of London at that day returned to our ſaid juſtices at Weſtminſter that the ſaid J. S. is not in their bailiwick, whereas it is ſufficiently atteſted in our ſaid court before our juſtices at Weſtminſter that the ſaid J. S. wanders up and down in your ſaid county palatine of Lancaſter; therefore we command you, that by our writ under the ſeal of our ſaid county palatine of Lancaſter duly made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he may take the ſaid J. S. if he ſhall be

found in his bailiwick, and him ſafely keep, ſo that he may have his body before our juſtices at Weſtminſter on next after to ſatisfy the ſaid T. F. his coſts and charges aforeſaid; and have you, &c. Witneſs, &c.

Ca. ſa. on a nonſuit on a writ of error in exchequer on judgment by bill, B. R. in *aſſumpſit.*

GEORGE the Third, &c. to, &c.: We command you, that you take J. S. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on Tueſday next after to ſatisfy F. G. as well pounds which the ſaid F. G. lately in our court before us at Weſtminſter recovered againſt him for his damages which he had ſuſtained as well by reaſon of the non-performance of certain promiſes and undertakings by the ſaid J. S. to the ſaid F. G. lately made as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid J. S. is convicted, as appears to us of record; and alſo pounds which to the ſame F. G. in our exchequer chamber before our juſtices of the bench and the barons of our exchequer of the degree of the coif there, according to the form of the ſtatute lately made and provided, were adjudged for his damages, coſts, and charges which he had ſuſtained and expended by reaſon of the delay of execution of the judgment aforeſaid by means of proſecuting our writ of error by him the ſaid J. S. of and upon the judgment aforeſaid proſecuted, whereupon the ſaid J. S. is nonſuited, and whereof he is likewiſe convicted, as by the inſpection of the record and proceedings thereof from the court of exchequer chamber aforeſaid into our ſaid court before us, according to the form of the ſtatute aforeſaid, remitted, and in our ſame court before us now remaining in all things affirmed, appears to us likewiſe of record; and have you, &c. Witneſs, &c.

Ca. ſa. on a judgment affirmed in exchequer after writ of error, the judgment being by bill, B. R. in *aſſumpſit.*

GEORGE the Third, &c. to, &c.: We command you, that you take J. B. if ſhe ſhall be found in your bailiwick, and her ſafely keep, ſo that you may have her body before us at Weſtminſter on next after to ſatisfy W. V. as well twenty-nine pounds which the ſaid W. V. lately in our court before us at Weſtminſter recovered againſt her for his damages which he had ſuſtained as well by reaſon of the non-performance of certain promiſes and undertakings by the ſaid J. B. to the ſaid W. V. lately made as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid J. B. is convicted, as appears to us of record; and alſo pounds which to the ſame W. V. in our exchequer chamber before our juſtices of the bench and the barons of our exchequer of the degree of the coif there, according to the form of the ſtatute lately made and provided, were adjudged for his damages, coſts, and charges which he had ſuſtained and expended by reaſon of the delay of execution of the judgment aforeſaid by pretence of proſecuting our writ of error by her the ſaid J. B. of and upon the judgment aforeſaid proſecuted, whereon

whereon that judgment was in the ſame court afterwards affirmed, whereof the ſame J. B. is convicted, as by the inſpection of the record and proceedings thereof from the ſaid court of exchequer chamber aforeſaid in our ſaid court before us, according to the form of the ſtatute aforeſaid, remitted, and in our ſaid court before us now remaining in all things affirmed, appears likewiſe to us of record; and have you there, &c. Witneſs, &c.

Teſt. ca. ſa. againſt bail from Middleſex to Lancaſter after *ſi. fa.* in Middleſex and *teſt. ſi. fa.* into Lancaſter and *ca. ſa.* into Middleſex, B. R. in debt.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas we lately commanded our ſheriff of Middleſex, that of the goods and chattels of J. P. and J. F. the bail of J. M. in his bailiwick, he ſhould cauſe to be made which A. B. lately in our court before us at W. recovered againſt the ſaid J. M. for a debt, and alſo which to the ſaid A. B. lately in our ſame court before us at Weſtminſter were adjudged for her damages which ſhe had ſuſtained as well on occaſion of the detaining that debt as for her coſts and charges by her laid out about her ſuit in that behalf, whereof the ſaid J. M. has been convicted, as appears to us of record; and whereof in our ſame court before us at Weſtminſter it is conſidered that the aforeſaid A. B. have execution againſt the ſaid J. P. and J. F. for the debt and damages aforeſaid, according to the force, form, and effect of a certain recognizance by them the ſaid J. P. and J. F. in our ſaid court before us for the ſaid J. M. at the ſuit of the ſaid A. B. in the ſuit aforeſaid acknowledged, as it likewiſe appears to us of record; and that the ſaid ſheriff ſhould have that money before us at Weſtminſter at a certain day now paſt to render to the ſaid A. B. for her debt and damages aforeſaid; and our ſaid ſheriff of Middleſex at that day returned to us that the aforeſaid J. P. and J. F. had not, nor had either of them any goods and chattels in his bailiwick whereof he could cauſe to be made the debt and damages aforeſaid, or any part thereof: And whereas we lately commanded you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you ſhould command the ſame ſheriff, that of the goods and chattels of the ſaid J. P. and J. F. in his bailiwick he ſhould cauſe the ſaid debt and damages to be made and levied, ſo that you might have that money before us at Weſtminſter on next after to be rendered to the ſaid A. B. for the debt and damages aforeſaid; and whereupon you the ſaid chancellor at that day returned to us, that by virtue of the ſaid writ to you directed by another writ under the ſeal of the ſaid county palatine directed to the ſheriff of the ſame county you command the ſaid ſheriff as therein you was commanded, who in anſwer to the ſaid writ ſaid that the within-named J. P. and J. F. had not, nor had either of them any goods or chattels within his bailiwick whereby or whereout he could levy the debt and damages aforeſaid, or any part thereof: And whereas we lately commanded our ſheriff of Middleſex that he ſhould take the aforeſaid J. P. and

J. F. if they ſhould be found in his bailiwick, and them ſafely keep, ſo that he might have their bodies before us at Weſtminſter at a certain day now paſt, to ſatisfy the ſaid A. B. of the debt and damages aforeſaid, and whereupon our ſaid ſheriff of Middleſex at that day returned to us, that the aforeſaid J. P. and J. F. were not, nor were either of them found in his bailiwick, whereupon it is ſufficiently teſtified in our ſaid court before us, that the aforeſaid J. P. and J. F. do lurk and wander up and down in our ſaid county palatine; therefore we command you, that by our writ, under the ſeal of our ſaid county palatine to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that he take the aforeſaid J. P. and J. F. if they ſhall be found in his bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter on next after to ſatisfy the ſaid A. B. for the debt and damages aforeſaid, according to the force, form, and effect of the recognizance aforeſaid; and have you, &c. Witneſs, &c.

Ca. ſa. againſt bail after pleading to the *ſci. fa.* GEORGE the Third, &c. to, &c. We command you, that you take J. H. of in your county, of , yeoman, and K. N. of , yeoman, the bail of A. B. if they may be found in your bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter, on next after , to ſatisfy L. D. the elder, , which the ſaid L. D. hath lately recovered againſt the ſaid A. B. in our ſaid court before us for his damages by him ſuſtained, as well on occaſion of the non-performing of certain promiſes and undertakings made by the ſaid A. B. to the ſaid L. D. as for his coſts and charges by him laid out about his ſuit in that behalf, whereof the ſaid A. B. hath been convicted, as appears to us of record, and whereupon it has been conſidered in our ſaid court before us at Weſtminſter, that the ſaid L. D. ſhould have his execution againſt the ſaid J. H. and K. N. for the damages, coſts, and charges aforeſaid, according to the force, form, and effect of a certain recognizance by them the ſaid J. H. and K. N. in our ſaid court before us at Weſtminſter aforeſaid for the ſaid A. B. at the ſuit of the ſaid L. D. in the ſuit aforeſaid acknowledged by the default of them the ſaid J. H. and K. N. as it likewiſe appears to us of record, and alſo to ſatisfy the ſaid L. D. for his damages, coſts, and charges which the ſaid L. D. hath had and been put unto on occaſion of the ſaid J. H. and K. N. they having pleaded to our writ of *ſcire facias* ſued out againſt them at the ſuit of the ſaid L. D. in that behalf, whereof the ſaid J. H. and K. N. have been convicted, as alſo appears to us of record; and have you, &c. Witneſs, &c.

Ca. ſa. after judgment in the king's bench, affirmed in the exchequer chamber and the houſe of lords, at the ſuit of an attorney of B. R. GEORGE the Third, &c. to, &c. Whereas we lately commanded our ſheriff of Middleſex that he ſhould take R. C. and

J. C.

J. C. if they ſhould be found in his bailiwick, and that he ſhould ſafely keep them, ſo that he might have their bodies before us at a certain day now paſt, to ſatisfy H. I. gentleman, one of the attornies of our court before us, according to the liberties and privileges of the ſame court uſed and approved therein for ſuch attornies from time whereof the memory of man is not to the contrary, as well , which they the ſaid H. I. had lately in our court before us at Weſtminſter by bill without our writ, and by the ſame court recovered againſt them for his damages which he had ſuſtained, as well by reaſon of a certain plea of treſpaſs on the caſe, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid R. C. and J. C. were convicted, as appeared to us of record, and alſo of , which to the ſaid H. I. in our court of exchequer chamber before our juſtices of our common bench, and our barons of our exchequer of the degree of the coif there, according to the form of the ſtatute lately made and provided, were adjudged for his damages, coſts, and charges which he had ſuſtained and expended by reaſon of the delay of the execution of the judgment aforeſaid, by pretence of proſecuting our writ of error by them the ſaid R. C. and J. C. of and upon the judgment aforeſaid proſecuted, whereon that judgment was in the ſame court afterwards affirmed; and whereof the ſaid R. C. and J. C. were convicted, as by the inſpection of the record and proceedings thereof from the ſaid court of exchequer chamber aforeſaid, aſſigned into our ſaid court at Weſtminſter aforeſaid, according to the form of the ſtatute aforeſaid remitted, and in our ſaid court before us at Weſtminſter then and ſtill remaining in all things affirmed, as appeareth likewiſe to us of record; as alſo , which to the ſaid H. I. in our court of parliament before us and the lords ſpiritual and temporal in parliament aſſembled, according to the form of the ſtatute in ſuch caſe made and provided, were adjudged to the ſaid H. I. for his damages, coſts, and charges which he had ſuſtained by reaſon of the further delay of execution of the judgment aforeſaid, by pretence of proſecuting our writ of error by them the ſaid R. C. and J. C. of and upon the judgment aforeſaid, and affirmance thereof as aforeſaid, in our ſaid court of parliament, which by our ſaid court of parliament is in all things affirmed, whereof the ſaid R. C. and J. C. are convicted, as by the inſpection of the record and proceedings thereof from our ſaid court of parliament into our ſaid court before us at Weſtminſter remitted, as appears likewiſe to us of record; and our ſaid ſheriff of Middleſex hath returned to us, that the ſaid R. C. and J. C. were not, nor was either of them to be found in his bailiwick, whereupon on the behalf of the ſaid H. I. it is ſufficiently atteſted in our court before us, that the ſaid R. C. and J. C. wander about, and lurk up and down, and ſecrete themſelves in your bailiwick; therefore we command you, that you take R. C. and J. C. if they ſhall be found in your bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter on next after , to ſatisfy the ſaid H. I. of his damages, coſts, and charges aforeſaid, according

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ing to the form and effect of the recovery aforesaid; and have you, &c. Witness, &c.

Ca. sa. upon an affirmance of a judgment in parliament by surviving partner.

GEORGE the Third, &c. to, &c. We command you, that you take R. Y. late of , if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us on the morrow of All Souls, wheresoever we shall be in England, to satisfy A. H. and L. G. who survived W. G. their late partner in trade, deceased, as well , which the said A. H. and L. G. lately in our court before us at Westminster, by our writ, and by the judgment of the same court recovered against him for their damages which they had sustained, as well by reason of the non-performance of certain promises and undertakings made to them by the said R. Y. and one P. M. which said P. M. by the course of law has been outlawed at the suit of the said A. H. and L. G. survivors as aforesaid, and still remains so outlawed, as for their costs and charges by them about their suit in that behalf expended, whereof the said R. Y. is convicted, as appears to us on record, as also , which to the said A. H. and L. G. in our court of parliament before us and the lords spiritual and temporal in parliament assembled, according to the form of the statute in such case made and provided, were adjudged for their damages, costs, and charges which they have sustained by reason of the delay of execution of the judgment aforesaid, by pretence of prosecuting our writ of error by him the said R. Y. of and upon the judgment aforesaid in our said court of parliament prosecuted, and which judgment by our said court of parliament is in all things affirmed, whereof the said R. Y. is convicted, as by the inspection of the record and proceedings thereof from our said court of parliament into our said court before us at Westminster remitted, appears likewise to us of record; and have, &c.

Ca. sa. on affirmance of judgment in error, from C. B. to B. R.

GEORGE the Third, &c. to, &c. We command you, that you take A. B. late of , if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us , wheresoever we shall then be in England, to satisfy W. F. as well which the said W. F. lately in our court before Alexander lord Loughborough and his companions then justices of our court of C. B. recovered for his damages which he had sustained, as well by reason of the non performance of certain promises and undertakings then lately made by the said A. B. to the said W. F. as for his costs and charges by him about his suit in that behalf expended, whereof the said A. B. was convicted, as appears to us of record, as also , which to the same W. F. in our court before us, according to the form of the statute in such case made and provided, were adjudged for his damages, costs, and charges which he had sustained and expended by reason of the delay of execution of the judgment aforesaid, by means of prosecuting our writ of error by him

him the ſaid A. B. of and upon the judgment aforeſaid proſecuted, whereon the ſaid judgment was in our ſaid court before us afterwards affirmed, and whereof the ſaid A. B. is convicted, as by the record and proceedings now remaining in our ſaid court before us more fully appears; and have, &c. Witneſs, &c.

Teſtatum ca. ſa. after fieri facias, and part levied, and nulla bona as to the reſidue, in caſe.

GEORGE the Third, &c. to, &c. Whereas we lately commanded our ſheriffs of London, that of the goods and chattels in their bailiwick of A. B. late of , if they ſhould cauſe to be made , which to C. D. in our court before our juſtices at Weſtminſter were adjudged for his damages which he had ſuſtained, as well by reaſon of a certain plea of treſpaſs upon the caſe, as for his coſts and charges by him laid out about his ſuit in that behalf expended, whereof the ſaid A. B. was convicted, as appeared to us of record; and that the ſheriffs of London ſhould have that money before our juſtices at Weſtminſter at a certain day then paſt, to render to the aforeſaid C. D. for his damages aforeſaid; and whereas our ſaid ſheriffs of London at that day certified to our ſaid juſtices at Weſtminſter, that the ſaid A. B. had no goods or chattels in their bailiwick whereof the damages aforeſaid, or any part thereof, could be made or levied, and it being teſtified in our ſame court that the ſaid A. B. had ſufficient goods and chattels in the bailiwick of our ſheriff of Middleſex whereof the damages aforeſaid might be made and levied, we lately commanded our ſaid ſheriff of Middleſex, as we had before commanded him, that of the goods and chattels of the within-named A. B. in his bailiwick, he ſhould cauſe to be made and levied the damages aforeſaid; and that he ſhould have the money before our juſtices at Weſtminſter at a certain day therein mentioned and now paſt, to render to the ſaid C. D. for the damages aforeſaid; and whereupon T. W. eſquire, and M. P. eſquire, our ſaid ſheriff of the county of Middleſex at that day returned to our juſtices at Weſtminſter, that by virtue of that writ to him directed, he cauſed to be made of the goods and chattels of the within-named A. B. in his bailiwick, pounds, part thereof, he had neceſſarily expended in the ſeizing, appraiſing, keeping, preparing for ſale, and ſelling the ſaid goods and chattels, and reſidue thereof he had before his majeſty's juſtices at the day and place within mentioned ready to pay to the within-named C. D. in ſatisfaction of ſo much of his damages within mentioned; and he further certified, that the ſaid A. B. had not any other or more goods or chattels in his ſaid bailiwick, whereof he could cauſe to be levied the reſidue of the ſaid damages, or any part thereof; and whereas we lately commanded our ſheriffs of London, that they ſhould take the ſaid A. B. if he might be found in their bailiwick, and him ſafely keep, ſo that they might have his body before our juſtices at Weſtminſter at a certain day now paſt, to ſatisfy the ſaid C. D. the reſidue of the damages aforeſaid; and our ſaid ſheriffs of London at that day returned to our ſaid juſtices at Weſtminſter, that the ſaid A. B. was not found in their bailiwick; whereas it is ſufficiently atteſted

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in our court before our juſtices at Weſtminſter, that the ſaid A. B. wanders up and down in your ſaid county; therefore we command, that you take the ſaid A. B. if he may be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter in , to ſatisfy the ſaid C. D. the reſidue of the damages aforeſaid; and have you, &c. Witneſs, &c.

Ca. ſa. againſt bail, after pleading to *ſi. ſa.*

GEORGE the Third, &c. to, &c. We command you, that you take A. B. of , and C. D. of , the bail of E. F. if they may be found in your bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter on next after , to ſatisfy G. H. which the ſaid G. H. hath lately recovered againſt the ſaid E. F. in our ſaid court before us for his damages by him ſuſtained, as well on occaſion of the not performing certain promiſes and undertakings made by the ſaid E. F. to the ſaid G. H. as for his coſts and charges by him laid out about his ſuit in that behalf, whereof the ſaid E. F. hath been convicted, as appears to us on record; and whereupon it hath been conſidered in our ſaid court before us at Weſtminſter, that the ſaid G. H. ſhould have his execution againſt the ſaid A. B. and C. D. in our ſaid court before us at Weſtminſter aforeſaid, for the damages, coſts, and charges aforeſaid, according to the force, form, and effect of a certain recognizance, by them the ſaid A. B. and C. D. in our ſaid court before us at Weſtminſter for the ſaid E. F. at the ſuit of the ſaid G. H. in the ſuit aforeſaid acknowledged by the defendant of them the ſaid A. B. and C. D. as it likewiſe appears to us on record; and alſo to ſatisfy the ſaid G. H. for his damages, coſts, and charges which the ſaid G. H. hath had and been put unto on occaſion of the ſaid A. B. and C. D. their having pleaded to our writ of *ſcire facias* ſued out againſt them at the ſuit of the ſaid G. H. in that behalf, whereof the ſaid A. B. and C. D. have been convicted, as alſo appears to us on record; and have, &c. Witneſs, &c.

Teſt. ca. ſa. after judgment in K. B. affirmed in the exchequer chamber and in the houſe of lords.

GEORGE the Third, &c. to, &c. Whereas we lately commanded our ſheriff of Middleſex, that he ſhould take A. B. and C. D. if they ſhould be found in his bailiwick, and that he ſhould ſafely keep them, ſo that they might have their bodies before us at Weſtminſter, at a certain day now paſt, to ſatisfy T. W. gentleman, one of the attornies of our court before us, according to the liberties and privileges of the ſame court uſed and approved therein for ſuch attornies, from time whereof the memory of man is not to the contrary, as well which the ſaid T W. had lately in our court before us at Weſtminſter, by bill without our writ, and by the judgment of the ſame court recovered againſt them for his damages which he had ſuſtained, as well by reaſon of a certain plea of treſpaſs on the caſe, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid A. B. and

C. D. were convicted, as appeared to us of record; as alſo of which to the ſaid T. W. in our court of exchequer chamber before our juſtices of our C. B. and our barons of our exchequer, of the degree of the coif there, according to the form of the ſtatute lately made and provided, were adjudged for his damages, coſts, and charges which he had ſuſtained and expended by reaſon of the delay of execution of the judgment aforeſaid, by pretence of proſecuting our writ of error by them the ſaid A. B. and C. D. of and upon the judgment aforeſaid proſecuted, whereon that judgment was in the ſame court afterwards affirmed, and whereof the ſaid A. B. and C. D. were convicted, as by the inſpection of the record, and proceedings from the ſaid court of exchequer chamber aforeſaid, aſſembled into our ſaid court before us at Weſtminſter aforeſaid, according to the form of the ſtatute aforſaid remitted, and in our ſaid court before us at Weſtminſter then and ſtill remaining, in all things affirmed, as appeared likewiſe to us of record, as alſo which to the ſaid T. W. in our court of parliament, before us and the lords ſpiritual and temporal in parliament aſſembled, according to the form of the ſtatute in ſuch caſe made and provided, were adjudged to the ſaid T. W. for his damages, coſts, and charges which he had ſuſtained by reaſon of the further delay of execution of the judgments aforeſaid, by pretence of proſecuting our writ of error by them the ſaid A. B. and C. D. of and upon the judgment and affirmance thereof as aforeſaid in our ſaid court of parliament, and which by our ſaid court of parliament is in all things affirmed, whereof the ſaid A. B. and C. D. are convicted, as by the inſpection of the record and proceedings thereof from our ſaid court of parliament into our ſaid court before us at Weſtminſter remitted, as appeared likewiſe of record; and our ſaid ſheriff of Middleſex hath returned, that the ſaid A. B. and C. D. were not, nor was either of them to be found in his bailiwick, whereupon on the behalf of the ſaid T. W. it is ſufficiently teſtified in our court before us, that the ſaid A. B. and C. D. wander about, and lurk up and down, and ſecrete themſelves in your bailiwick; therefore we command you, that you take the ſaid A. B. and C. D. if they may be found in your bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter, on next after to ſatisfy the ſaid T. W. of his damages, coſts, and charges aforeſaid, according to the form and effect of the recoveries aforeſaid; and have, &c. Witneſs, &c.

Ca. ſa. upon an affirmance of judgment in parliament by ſurviving party.

GEORGE the Third, &c. to, &c. We command you, that you take A. B. late of if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us on next after whereſoever we ſhall then be in England, to ſatisfy C. D. who ſurvives E. F. his late partner in trade, &c. as well which the ſaid C. D. lately in our court before us at Weſtminſter, by our writ, and by the judgment of the ſame court recovered againſt him for his damages which he hath ſuſtained, as well by

by reaſon of the non-performing of certain promiſes and undertakings made to him by the ſaid A. B. and one G. H. which ſaid G. H. by the courſe of law has been outlawed at the ſuit of the ſaid C. D. ſurvivor as aforeſaid, and ſtill remains ſo outlawed, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid A. B. is convicted, as appears to us on record, as alſo which to the ſame C. D. in our court of parliament before us and the lords ſpiritual and temporal in parliament aſſembled, according to the form of the ſtatute in ſuch caſe made and provided, were adjudged for their damages, coſts, and charges which they have ſuſtained by reaſon of the delay of execution of the judgment, by pretence of proſecuting our writ of error by him the ſaid A. B. of and upon the judgment aforeſaid in our ſaid court of parliament proſecuted, and which judgment by our ſaid court of parliament is in all things affirmed, whereof the ſaid A. B. is convicted, as by the inſpection of the record and proceedings thereof from our ſaid court of parliament into our ſaid court before us at Weſtminſter remitted, appears likewiſe to us on record; and have you, &c. Witneſs, &c.

Teſt. ca. ſa. from Lancaſter into Surry, in *aſſumpſit*, in B. R.

GEORGE the Third, &c. to, &c. Whereas, we lately commanded our chancellor of our county palatine of Lancaſter, that he by virtue of our writ to him directed ſhould by another writ, under the ſeal of our ſaid county palatine of Lancaſter to be duly made out, and to be directed to the ſheriff of the ſaid county palatine, command the ſaid ſheriff that he ſhould take T. P. if he ſhould be found in his bailiwick, and him ſafely keep, ſo that he might have his body before us at Weſtminſter at a certain day now paſt, to ſatisfy J. B. for his damages which he had ſuſtained, as well by reaſon of the not performing certain promiſes and undertakings made by the ſaid T. P. to the ſaid J. B. as for his coſts and charges laid out by him in and about his ſuit in that behalf, whereof the ſaid T. P. was convicted, as appears to us on record; and that he ſhould have that money before us at Weſtminſter at a certain day now paſt, to be rendered to the ſaid J. B. for his damages aforeſaid; and our ſaid chancellor of our ſaid county palatine duly made out, and directed to the ſheriff of the ſame county, commanded the ſame ſheriff, as by our writ he was commanded, and which ſaid ſheriff returned to our ſaid chancellor, that the ſaid T. P. was not found in his bailiwick; whereupon on the behalf of the ſaid J. B. it is ſufficiently atteſted in our court before our ſaid juſtices at Weſtminſter, that the ſaid T. P. wanders about, and lurks up and down, and ſecretes himſelf in your county; therefore we command you, that you take the ſaid T. P. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before us at Weſtminſter on next after to ſatisfy the ſaid J. B. his damages aforeſaid; and have you, &c. Witneſs, &c.

GEORGE

Teſt. ca. ſa. by adminiſtrators after plea to ſci. fa. and judgment thereon, in C. B.

GEORGE the Third, &c. to the ſheriffs of London, greeting: Whereas we lately commanded our ſheriff of Middleſex, that he ſhould take B. P. late of , if he ſhould be found in his bailiwick, and him ſafely keep, ſo that he might have his body before our juſtices at Weſtminſter at a certain day now paſt, to ſatisfy T. W. and R. B. adminiſtrators, &c. of A. K. deceaſed, at the time of his death, with the will of the ſaid A. K. annexed, as well which the ſaid A. K. in his lifetime lately in our court before our juſtices at Weſtminſter recovered againſt the ſaid B. P. for his damages which he had ſuſtained by reaſon of a certain treſpaſs upon the caſe then lately committed by the ſaid B. P. againſt the ſaid A. K. as alſo for his coſts and charges by him laid out about his ſuit in that behalf, whereof the ſaid B. P. has been convicted, as appears to us on record; and whereupon it is conſidered in our ſame court before our ſaid juſtices, that the ſaid T. W. and R. B. adminiſtrators as aforeſaid, ſhould have their execution againſt the ſaid B. P. for the damages, coſts, and charges aforeſaid, whereof the ſaid B. P. was convicted, as alſo , which to the ſaid T. W. and R. B. lately in our court before our juſtices at Weſtminſter were adjudged to them according to the form of the ſtatute in that caſe made and provided, by reaſon of the ſaid B. P. having pleaded to our writ of *ſcire facias*, ſued out by the ſaid T. W. and R. B. as adminiſtrators as aforeſaid againſt the ſaid B. P. to ſhew if he had or could ſay any thing why the ſaid T. W. and R. B. ſhould not have execution againſt him for the damages, coſts, and charges aforeſaid, according to the force, form, and effect of the aforeſaid recovery, and upon which the ſaid T. W. and R. B. have recovered judgment againſt the ſaid B. P. in our ſame court before our juſtices at Weſtminſter, as appear to us on record; and our ſaid ſheriffs of London at that day returned to our juſtices at Weſtminſter, that the ſaid B. P. was not found in their bailiwick; whereas it is ſufficiently certified in our court before our juſtices at Weſtminſter, the ſaid B. P. wanders about, and lurks up and down, and ſecretes himſelf in your bailiwick; therefore we command you, that you take the ſaid B. P. if he ſhall be found in your bailiwick, and him ſafely keep, ſo that you may have his body before our juſtices at Weſtminſter, on next after to ſatisfy the ſaid T. W. and R. B. for their damages, coſts, and charges aforeſaid; and have you, &c. Witneſs, &c.

Teſt. ca. ſa. from Cheſter into Lancaſter, in B. R.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas we lately commanded our chamberlain of our county palatine of Cheſter, that he by virtue of our writ to him directed ſhould by another writ under the ſeal of our ſaid county palatine of Cheſter to be duly made out, and to be directed to the ſheriff of the ſaid county palatine, command the ſaid ſheriff that he ſhould take A. B. if he might be found in his bailiwick, and him ſafely keep, ſo that he might have his body before us at Weſtminſter on a certain

a certain day now paſt, to ſatisfy C. D. of for his damages which he had ſuſtained, as well by reaſon of the not performing certain promiſes and undertakings made by the ſaid A. B. to the ſaid C. D. as for his coſts and charges laid out by him about his ſuit in that behalf, whereof the ſaid A. B. was convicted, as appears to us on record; and our ſaid chamberlain of our ſaid county palatine of Cheſter, at that day returned to us at Weſtminſter, that the ſaid A. B. is not found in his bailiwick, whereas it is ſufficiently atteſted in our ſaid court before us at Weſtminſter, that the ſaid A. B. lurks and wanders up and down in your ſaid county of Lancaſter; therefore &c. that by our writ, &c. you command the ſame ſheriff, that he, &c. if he, &c. and him, &c. ſo that, &c. before us on next after , to ſatisfy the ſaid C. D. for his damages aforeſaid; and have you, &c. Witneſs, &c.

Ca. ſa. into Lancaſter in treſpaſs, in C. B.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter: We command you, that by our writ, &c. you command the ſame ſheriff that he, &c. A. B. late of, &c. if &c. and him, &c. ſo that, &c. before our juſtices at Weſtminſter on next after , to ſatisfy C. D. for which lately in our court before our juſtices at Weſtminſter were adjudged to the ſaid C. D. for his damages which he had ſuſtained, as well by reaſon of certain treſpaſſes, &c. on the ſaid C. D. by the ſaid A. B. lately done and committed, as for the coſts and charges of the ſaid C. D. by him about his ſuit in that, &c. whereof the ſaid A. B. is convicted, as appears to us on record; and have you, &c. Witneſs, &c.

Teſt. ca. ſa. in debt into Lancaſhire, in B.R.

GEORGE the Third, by the grace of God, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We command you, that by our writ under the ſeal of our ſaid county palatine to be duly made out, and to be directed to the ſheriff of the ſaid county palatine, you command the ſaid ſheriff that he take James C. and James W. if they ſhall be found in his bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter on Friday next after the morrow of All Souls, to ſatisfy Richard B. of five hundred pounds debt, which the ſaid Richard lately in our court before us at Weſtminſter recovered againſt them, and alſo eleven pounds ten ſhillings, which in our ſaid court before us were adjudged to the ſaid Richard for his damages which he had ſuſtained, as well by occaſion of the detaining that debt, as for his coſts and charges by him about his ſuit in this behalf expended, whereof the ſaid James C. and James W. are convicted, as appears to us of record, and for that our ſheriffs of London, at a certain day now paſt, returned to us that the aforeſaid James C. and James W. are not found in their bailiwick, whereupon on the behalf of the ſaid

MVSEVM BRITANNICVM

ſaid Richard it is ſufficiently atteſted in our court before us at Weſtminſter, that the ſaid James C. and James W. do wander up and down, and ſecrete themſelves in our ſaid county palatine; and have you there then this writ. Witneſs Lloyd lord Kenyon, &c. M. and WAY.

GEORGE the Third, &c. to the ſheriff of Yorkſhire, greeting: We command you, that you levy of the goods and chattels of W. D. clerk, curate of ſequeſtrator of the vicarage of Biſhop Wilton in your county in your bailiwick, pounds, which J. R. who ſues as well for us as for himſelf lately recovered in our court before us, for his coſts and charges expended and laid out by him about his ſuit in a plea, wherefore the ſaid W. D. proſecuted a plea in court chriſtian againſt the ſaid J. R. after our prohibition to the contrary thereof, and whereof the ſaid W. D. is convicted, as appears to us on record; and have you that ſum of money before us at Weſtminſter on , to render to the ſaid J. R. who ſues as well for us as for himſelf, as for his coſts and expences aforeſaid; and have you, &c. Witneſs, &c. *Fi. fa.* in prohibition, in B. R.

GEORGE the Third, &c. to, &c. We command you, that you levy or cauſe to be levied of the goods and chattels in your bailiwick of H. C. which in our court before our juſtices were awarded to R. A. late of , by the direction of the ſame juſtices, according to the form of the ſtatute in that caſe made and provided, for his expences and coſts which he had ſuſtained by reaſon of the ſaid H. C. not proſecuting his writ with effect in a certain plea of treſpaſs on the caſe ſued out by him againſt the ſaid R. A.; and have you the monies before our juſtices at Weſtminſter on , to render to the ſaid R. A. for his expences and coſts, whereof the ſaid H. C. is convicted; and have you, &c. Witneſs, &c. *Fi. fa.* on a nonſuit, in C. B.

GEORGE the Third, &c. to, &c. We command, &c. cauſe, &c. of the goods and chattels which were of T. A. deceaſed, at the time of his death, who died inteſtate as it is ſaid in the hands of A. A. late of , widow, adminiſtratix of, &c. which were of the ſaid T. A. being in your bailiwick, as well a certain debt of , which W. M. gentleman, in our court before our juſtices at Weſtminſter hath recovered againſt her, as alſo , which were adjudged to the ſaid W. M. in our ſame court for his damages which he hath ſuſtained by reaſon of detaining that debt, if the ſaid A. A. hath ſo many goods and chattels which were of the ſaid T. A. at the time of his death in her hands to be adminiſtered, and if ſhe hath not, then that you cauſe the damages aforeſaid to be levied of the proper goods and chattels of the ſaid A. A. and have you the monies before our juſtices at *Fi. fa.* againſt an adminiſtratrix upon judgment entered upon *mutuatus* conſeſſed by warrant of attorney, in C. B.

Weſtminſter on , to render, &c. to the ſaid W. M. for his debts and damages, whereof the ſaid A. A. is convicted; and have, &c. Witneſs, &c.

Fi. fa. in *aſſumpſit* at ſuit of executor against adminiſtrator, in C. B.

GEORGE the Third, &c. to, &c. We command you, that you cauſe, &c. which were of G. U. deceaſed, at the time of his death in the hands of A. W. late of , widow, adminiſtratrix, &c. which were belonging to the ſaid G. U. her late huſband, deceaſed, at the time of his death, who died inteſtate, being in your bailiwick , which J. S. executor, &c. of P. T. deceaſed, lately in our court before our juſtices at Weſtminſter recovered againſt her for his damages which he hath ſuſtained, as well by reaſon of the not performing ſeveral promiſes and undertakings lately made by the ſaid G. U. in his lifetime to the ſaid , as for his coſts and charges laid out by him about his ſuit in, &c. if ſhe the ſaid A. W. hath ſo many goods and chattels which were of the ſaid G. U. at the time of his death in her hands to be adminiſtered; and if ſhe hath not, then that you cauſe to be made of the damages aforeſaid of the part of the goods and chattels of the ſaid A. W.; and have you the monies before our juſtices at Weſtminſter, to be paid to the ſaid J. S. for the damages aforeſaid, whereof the ſaid A. W. is convicted; and have you, &c. Witneſs, &c.

Fi. fa. againſt an executrix in *aſſumpſit* after judgment by default, in C. B.

GEORGE the Third, &c. to, &c. We command you, that you cauſe, &c. which were of U. M. deceaſed, at the time of his death in the hands and cuſtody of M. M. late of , widow, executrix of, &c. of the ſaid U. M. her late huſband, deceaſed, being in your bailiwick, pounds, which W. S. lately in our court before our juſtices at Weſtminſter recovered againſt her for his damages which he has ſuſtained, as well by reaſon of the not performing, &c. lately made by the ſaid U. M. in his lifetime to the ſaid W. S. as for his coſts and charges laid out by him about his ſuit in that behalf, if the ſaid M. M. hath ſo many goods and chattels which were of the ſaid U. M. at the time of his death in her hands to be adminiſtered; and if ſhe hath not ſo many goods and chattels in her hands to be adminiſtered, then that you cauſe of the damages aforeſaid, to be levied of the proper goods and chattels of the ſaid M. M.; and have you the money before our juſtices at Weſtminſter, on , to be paid to the ſaid W. for his , whereof the ſaid M. M. is, &c.; and have, &c. Witneſs, &c.

The return to the *fi. fa.* above, *nulla bona* and *devaſtavit*.

I DO hereby certify to the juſtices within written, at the day and place within contained, that the within-named U. M. hath no goods or chattels which were of the within-named M. M. at the time of his death in her hands to be adminiſtered in my bailiwick,

wick, whereof the damages within-mentioned, or any parcel thereof, can be made or levied; and alſo that the ſaid M. M. hath not any of her own proper goods or chattels in my bailiwick, whereof of the damages, or any part thereof, can be made and levied; but I further humbly certify to the ſaid juſtices, that divers goods and chattels which were of the ſaid U. M. at the time of his death, to the value of the damages within mentioned, came to the hands of the ſaid U. M. after the death of the ſaid U. M. to be adminiſtered, which ſame goods and chattels the ſame M. M. hath cloigned, waſted, and converted to her own proper uſe.

Fi. fa. in caſe upon promiſes, in C. B.

GEORGE, &c. to, &c. We command you, that you cauſe, &c. in your county of J. J. late of , pounds, which to W. B. in our court before our juſtices at Weſtminſter were adjudged for his damages which he had ſuſtained, as well by reaſon of the not performing, &c. made by the ſaid J. J. to the ſaid W. B. at in your county, for his coſts and charges, &c. &c. whereof the ſaid J. J. is convicted; and have you that money at Weſtminſter on , to render to the ſaid W. B. for his, &c. whereof he is, &c.; and have, &c. Witneſs, &c.

Fi. fa. in treſpaſs and aſſault, in B. R.

GEORGE, &c. to, &c. We command, &c. of W. M. in your bailiwick, you cauſe , which to J. M. lately in our court before us at Weſtminſter were adjudged for his damages which he hath ſuſtained by reaſon of a certain treſpaſs and aſſault on the ſaid J. M. by the aforeſaid W. M. with force and arms, and againſt our peace, at in your county committed; and have then that money before us on next after , to render to the aforeſaid J. M. for his damages aforeſaid; whereof the ſaid W. M. is, &c.; and have, &c. Witneſs, &c.

Fi. fa. in debt on bond, in B. R.

GEORGE, &c. to, &c. We command, that of, &c. of W. R. in your bailiwick, you cauſe to be made, &c. , which B. B. lately in our court before us at Weſtminſter recovered againſt him for a debt, alſo , which to the ſaid B. B. lately in our ſaid court before us were adjudged for his damages which he had ſuſtained, as well by reaſon of the detaining that debt for his coſts and charges by him laid out in and about his ſuit in this behalf, whereof the ſaid M. M. is convicted, as appears, &c.; and have, &c. before us at Weſtminſter, on next after , to render to the ſaid B. B. for his debt and damages aforeſaid, whereof, &c.; and have, &c. Witneſs, &c.

Fi. fa. in debt, in C. B.

GEORGE, &c. to, &c. We command you, that of, &c. of G. H. late of, &c. in your bailiwick, you cauſe, &c. as well a certain debt of , which H. L. widow, in our court before

our juſtices at Weſtminſter recovered againſt him, as alſo , which to the ſaid H. L. in our ſame court were adjudged for her damages which ſhe had ſuſtained by reaſon of detaining her ſaid debt; and have you, &c. before our juſtices at Weſtminſter, on , to render to the ſaid H. L. for her debt and damages aforeſaid, whereof the ſaid G. H. is convicted; and have you there, &c. Witneſs, &c.

Fi. fa. in debt after *nihil* returned on *ſci. fa. poſt annum et diem*, in C. B.

GEORGE, &c. to, &c. We command you, that of, &c. T. C. late of, &c. in your bailiwick, you cauſe, &c. as well a certain debt of , which G. B. gentleman, and F. R. gentleman, in our court before our juſtices at Weſtminſter recovered againſt him, as pounds, which to the ſaid G. B. and F. R. in our ſame court were adjudged for their damages which they had ſuſtained by reaſon of the detention of the debt, as for his coſts, &c.; and have you, &c. before our juſtices, &c. to render, &c. for their debt and damages aforeſaid; whereof the ſaid T. C. is, &c. and whereof it is conſidered in our ſame court before our juſtices at Weſtminſter, that the ſaid G. B. and F. R. have execution againſt the ſaid T. C. by the default of the ſaid T. C.; and have, &c. Witneſs, &c.

Fi. fa. againſt an hundred on the ſtatute of hue and cry, in B. R.

GEORGE the Third, &c. to, &c. We command you that of, &c of the men inhabiting in the hundred of , in your county, in your bailiwick, you cauſe, &c. , which to J. A. who as well for us as for himſelf in this behalf proſecutes, lately in our court before, &c. were adjudged for the damages which he has ſuſtained by reaſon of a certain aſſault and battery committed upon him with force and arms, and againſt our peace, by certain, to wit, two malefactors unknown, to the ſaid J. A. at the pariſh of , in the ſaid hundred of , in your county, and upon our highway; and have that money before us on , whereſoever, &c. to render to the aforeſaid J. A. for his aforeſaid damages, according to the form, &c. whereof they are convicted; and have, &c. Witneſs, &c.

Fi. fa. on a *non proſ.* for want of plaintiff's replying to defendant's plea, in B. R.

GEORGE the Third, &c. to, &c. We command you, that you levy of, &c. of J. S. being in your bailiwick, pounds, which in our court before us at Weſtminſter, by the direction of our ſame court, according, &c. were adjudged to T. C. for his coſts and charges by him ſuſtained in and about his defence in a certain action of treſpaſs on the caſe lately proſecuted in our ſame court before us againſt him by the ſaid J. S. becauſe the ſaid J. S. did not afterwards proſecute that action, whereof the ſaid J. S. is, &c. as it appears, &c.; and have, &c. before us at Weſtminſter, on next after , to render to the ſaid J. S. for his coſts and charges aforeſaid; and have, &c.

GEORGE

GEORGE the Third, &c. to, &c. Whereas we lately commanded our ſheriff of Middleſex, that of the, &c. of J. W. in his bailiwick, he ſhould cauſe to be made pounds, which T. M. gentleman, one of the attornies of our court before us at Weſtminſter recovered againſt him for a debt, and alſo pounds, which to the ſaid T. M. lately in our ſaid court were adjudged for his damages which he had ſuſtained, as well by reaſon of the detaining that debt, as for his coſts, &c. whereof the ſaid J. W. is convicted, &c.; and that he ſhould have that money before us at Weſtminſter, at a certain day now paſt, to render to the ſaid T. M. for his debt and damages aforeſaid; and our ſaid ſheriff of Middleſex at that day returned to us, that the ſaid J. W. had not any goods and chattels in his bailiwick whereof he could cauſe to be made the debt, &c. aforeſaid, or any part thereof; whereupon on the behalf of the ſaid T. M. it is ſufficiently teſtified in our ſaid court before us, that the ſaid T. M. hath ſufficient goods and chattels in your bailiwick whereof the debt and damages aforeſaid may be made and levied; therefore we command you, that of, &c. of the ſaid J. W. in your bailiwick, you cauſe the debt and damages aforeſaid to be made and levied, ſo that you have that money before us at Weſtminſter on next after , to render to the ſaid T. M. for the debt and damages aforeſaid; and have, &c. Witneſs, &c.

Teſt. ſi. fa. in debt, in B. R. by an attorney.

GEORGE the Third, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: Whereas we lately commanded our ſheriffs of the city of York, that of, &c. of J. B. in their bailiwick, they ſhould cauſe to be made pounds, which J. R. and W. A. lately in our court before us at Weſtminſter recovered againſt him for their damages which they had ſuſtained, as well by reaſon of the not performing, &c. lately made by the ſaid J. B. to the ſaid J. R. and W. A. as for their coſts, &c. whereof the ſaid J. B. is convicted, as, &c.; and that they ſhould have that money before us at Weſtminſter, at a certain day now paſt, to be rendered to the ſaid J. R. and W. A. for their damages aforeſaid; and our ſaid ſheriffs of the city of York at that day returned to us, that the ſaid J. B. had not any goods and chattels in their bailiwick whereof they could cauſe to be made the damages, or any part thereof; whereupon on the behalf of the ſaid J. R. and W. A. it is ſufficiently teſtified in our ſaid court before us, that the ſaid J. B. hath ſufficient goods and chattels in our ſaid county palatine whereof the damages aforeſaid may be made and levied; therefore we command you, that by our writ, &c. you command the ſame ſheriff that of the, &c. of the ſaid J. B. in his bailiwick, he cauſe the damages aforeſaid to be made and levied, ſo that the ſaid ſheriff have that money before us at Weſtminſter, on next after , to render to the ſaid J. R. and W. A. for their damages aforeſaid; and have, &c. Witneſs, &c.

Teſt. ſi. fa. in caſe on promiſes, from York to Lancaſter, in B. R.

Teſt. fi. fa. into the county palatine of Cheſter, after a verdict in caſe on promiſes, in C. B.

GEORGE the Third, &c. to our chamberlain of our county palatine of Cheſter, or to his deputy there, greeting: We command you, that by our writ, &c. you command the ſaid ſheriff that he cauſe, &c. in his bailiwick of J. H. late of, &c. pounds, which to J. K. in our court before our juſtices at Weſtminſter were adjudged for his damages which he had ſuſtained by reaſon of the non-performance of, &c. made by the ſaid J. H. to the ſaid J. K. of , in the county of ; and that the ſaid ſheriff have that money before, &c. in , to render to the ſaid J. K. for his damages aforeſaid, whereof the ſaid J. H. is convicted; and whereof our ſaid ſheriff of hath certified to our, &c. at a certain, &c. that the ſaid J. H. had no, &c. in his, &c. whereof the damages aforeſaid or any part thereof could be made and levied; and have, &c. Witneſs, &c.

Directions for *ſuperſedeas* for not proceeding to judgment, in C. B.

BY rule 8. George I. it is ordered, "that if any plaintiff ſhall declare againſt any defendant in the cuſtody of the warden of the fleet, ſheriff, or other officer, by virtue of proceſs of this court, and not proceed to *judgment in three* terms after ſuch declaration delivered, incluſive of the terms in which the declaration ſhall be delivered, the defendant having appeared." [This is meant final judgment, always underſtood to be ſo.]

This appearance, which muſt be entered with the prothonotary's, may be entered when you ſign the *ſuperſedeas*, which you make out yourſelf, (and get ſigned with the prothonotary); "then ſuch defendant ſo remaining in priſon may be diſcharged by *ſuperſedeas* to be allowed by the judge, unleſs cauſe be ſhewn why ſuch plaintiff did not proceed to judgment as aforeſaid, upon notice to plaintiff or his attorney, and oath of ſuch notice. In order to obtain ſuch *ſuperſedeas*, you are to have a copy of the cauſes, and certificate of the time of the delivery of the declaration from the gaoler, with an affidavit of the gaoler's having ſigned it; then ſearch the prothonotary's final judgment book of the term the declaration is of, and the two following terms, and then take out a ſummons from a judge; and if the plaintiff's attorney appears not upon the third ſummons, an affidavit of three ſummonſes and your attendances thereon, and that no final judgment is ſigned, the judge will order you a *ſuperſedeas*.

Superſedeas for not proceeding to judgment in three terms.

GEORGE, &c. to, &c. Whereas we lately by our writ commanded you to take C. D. and ſafely keep him, ſo that you might have his body before our court at a certain day now paſt, to anſwer to A. B. in a plea of treſpaſs, and alſo in a certain plea of treſpaſs upon the caſe upon promiſes, to the damage of the ſaid A. B. of , and whereas you by virtue thereof did arreſt the ſaid C. D. and now detain him thereon in your cuſtody, and alſo whereas the aforeſaid A. B. in Eaſter term laſt did declare againſt him the ſaid C. D. but hath not yet proceeded to judgment thereon in three terms, according to the courſe and practice of our court of C. B.; and the ſaid C. D. hath appeared in our ſame court by E. F. his attorney, to anſwer to the ſaid A. B. in the plea aforeſaid;

ſaid; therefore we command you forthwith to diſcharge the ſaid C. D. from his impriſonment and ſet him at liberty, if he be detained in your cuſtody on the aforeſaid occaſion only. Witneſs, &c.

Get a copy of the cauſes from the clerk of the papers at the K. B. priſon, for which you pay , and a certificate from the clerk of the declarations, and pay ; then take out a judge's ſummons for plaintiff, to ſhew cauſe why defendant ſhould not be diſcharged, plaintiff not having proceeded to judgment within three terms after declaration delivered.

If plaintiff's attorney attends on firſt ſummons, and conſents to an order for a *ſuperſedeas*, (for which you pay him three ſhillings and fourpence) the judge will make an order for his *ſuperſedeas* upon filing common bail.

Then fill up a bail piece, and deliver it and the judge's order to the clerk of the bails, who thereupon makes out a certificate to the marſhal of the K. B. priſon, that common bail was filed for the defendant according to the judge's order, for which pay him deliver the ſame to the defendant at the K. B. priſon, who will thereupon get diſcharged without any writ of *ſuperſedeas*.

If the defendant had been in the ſheriff's gaol, a writ of *ſuperſedeas* muſt have been made out and delivered to the ſheriff.

The certificate from the clerk of the declarations was needleſs in this caſe, and would have been neceſſary in order to get a writ of *ſuperſedeas* for want of a declaration; but to get a *ſuperſedeas* for want of a declaration one ſummons from a judge is only neceſſary.

The manner of obtaining *ſuperſedeas* for not proceeding to judgment in three terms in B. R.

GEORGE, &c. to, &c. Whereas we lately by our writ commanded our late ſheriff of that he ſhould take T. W. if he ſhould be found in his bailiwick, and that he ſhould ſafely keep him, ſo that he might have his body before us at Weſtminſter, at a certain day now paſt, to anſwer J. K. in a plea of treſpaſs; and alſo to a bill of the ſaid J. K. againſt the ſaid T. W. for upon promiſes, according to the cuſtom of our court before us exhibited; and whereas our ſaid late ſheriff by virtue thereof did arreſt the ſaid T. W. and he is now detained thereon in your cuſtody; and alſo whereas the aforeſaid J. K. in the term of the Holy Trinity laſt paſt, did declare againſt the ſaid T. W. but becauſe the ſaid J. K. hath not proceeded to trial or obtained judgment thereon within three terms next after , declaring againſt the ſaid T. W. according to the courſe and practice of our court before us; and the ſaid T. W. having in our ſame court before us come and put in common bail to anſwer to the ſaid J. K. of the plea and bill aforeſaid; therefore we command you forthwith to diſcharge the ſaid T. W. from his impriſonment and ſet him at liberty, if he be detained in your cuſtody on the aforeſaid occaſion only. Witneſs, &c.

Superſedeas for not proceeding to trial or judgment in three terms, in B. R.

Ac etiam.

GEORGE, &c. to our chancellor, &c. Whereas we lately commanded you, that by our writ under the ſeal of our ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſaid county, you ſhould command the ſame ſheriff that he ſhould take W. B. eſquire, the elder, together with one W. B.

Superſedeas on putting in bail, in B. R.

the younger, if they might be found in his bailiwick, and them ſafely keep, ſo that you have their bodies before us at Weſtminſter, on, &c. to anſwer K. W. of a plea of treſpaſs, and alſo to a bill of the ſaid K. W. againſt the ſaid W. B. &c. for upon promiſes, according to the cuſtom of our court before us to be exhibited, yet becauſe it appears to us that the ſaid W. B. eſquire, hath put in ſpecial bail, who have juſtified and are ready to anſwer the aforeſaid W. B. of the ſaid plea and bill; therefore we command you, that by our writ under the ſeal of the ſaid county palatine duly to be made out, and to be directed to the ſheriff of the ſame county, you command the ſame ſheriff that if the ſaid W. B. the elder, for that cauſe and no other in our priſon under his cuſtody is detained, that then without delay the ſaid ſheriff cauſe him the ſaid W. B. the elder, to be freed from the priſon where he is ſo detained, and permit him to go at large, as he the ſaid ſheriff will anſwer the contrary at his peril. Witneſs, &c.

Superſedeas for not proceeding to execution in two terms, in B. R.

GEORGE, &c. to the warden of our priſon of the fleet, greeting: Whereas P. L. was committed to the priſon of the Fleet aforeſaid by ſir G. C. knight, one of our juſtices of the court of the bench at Weſtminſter, by virtue of our writ of *habeas corpus cum cauſa*, directed to the marſhal of our marſhalſea, and by the return thereof was charged with the render made by the ſaid P. L. of Eaſter term laſt paſt, unto the ſaid marſhal in diſcharge of his bail in an action brought in our court before us by W. M. againſt the ſaid P. L. in a plea of debt on demand for , and coſts, but becauſe the ſaid W. M. hath not proceeded to charge the ſaid P. L. in execution within two terms next after ſuch render, according to the courſe and practice of our court before us, and the ſaid P. L. having in our ſaid court before us come and put in common bail to anſwer to the ſaid W. M. of the plea aforeſaid; therefore we command you forthwith to diſcharge the ſaid P. L. from his impriſonment and ſet him at liberty, if he be detained in your cuſtody on the aforeſaid occaſion only, as you will anſwer the contrary at your peril. Witneſs, &c.

Superſedeas for not proceeding to final judgment within three terms after declaration filed, in B. R.

GEORGE, &c. to, &c. Whereas by our writ we commanded the late ſheriff of your county, (the predeceſſor) that he ſhould take E. S. if he, &c. and him, &c. before us at Weſtminſter on, &c. in the year of our reign, to anſwer J. B. gentleman, one of the attornies, &c. of a plea of treſpaſs, and alſo to a bill of the ſaid J. B. againſt the ſaid E. S. for upon promiſes, according, &c. and becauſe the ſaid J. B. hath not proceeded thereon according to the rules and orders of our ſaid court before us, and the ſaid E. S. hath now in our ſaid court before us appeared and put in common bail to anſwer the ſaid J. B. of the plea aforeſaid; therefore we command you, if the ſaid E. S. for that cauſe and no other, in our priſon under your cuſtody is detained, then that without

without delay you cauſe him the ſaid E. S. to be freed from the priſon where he is detained, and permit him to go at large, &c. Witneſs, &c.

GEORGE, &c. to, &c. Whereas we lately, &c. that you ſhould take J. H. if, &c. and him, &c. before us at Weſtminſter, on, &c. laſt paſt, to anſwer E. A. and C. J. in a plea of treſpaſs, and alſo to a bill of the ſaid E. A. and C. J. againſt the ſaid J. H. for debt, according to the cuſtom of our ſaid court before us to be, &c.; and whereas the ſaid E. A. and C. J. have not declared againſt the ſaid J. H. within two terms; and the ſaid J. H. in our ſame court before us hath come and put in common bail at the ſuit of the ſaid E. A. and C. J. in the plea aforeſaid; therefore we command you, that you ſurceaſe from future taking the ſaid J. H. or attaching, impriſoning, or any ways moleſting him at the ſuit of the ſaid E. A. and C. J. in the ſuit aforeſaid, and if on that occaſion, and not on any other, you have taken and detained him in priſon, that you do at your peril without delay cauſe him the ſaid J. H. to be delivered out of priſon in which he is ſo detained. Witneſs, &c. *Superſedeas* for not declaring in two terms, in B. R.

GEORGE, &c. to, &c. Whereas we lately, &c. take R. U. late of , if he ſhould, &c. and that you, &c. before our juſtices at Weſtminſter, now laſt paſt, to anſwer to J. T. of a plea of treſpaſs, and alſo of a certain plea of treſpaſs on the caſe for on promiſes, according to the cuſtom of our court of C. B. now becauſe the ſaid J. T. hath not declared againſt the ſaid R. U. within two terms; and the ſame R. U. hath appeared in our ſame court before our ſame juſtices by T. W. his attorney, and his appearance by the court here is recorded; therefore we command you, that you wholly deſiſt from further arreſting, impriſoning, or in anywiſe moleſting the aforeſaid R. U. for the cauſe aforeſaid, and if you took him for that cauſe and none other, that you (at your peril) forthwith ſet him at liberty and let him go at large. Witneſs, &c. *Superſedeas* as above, in C. B.

[A *ſuperſedeas* for a priſoner for want of declaration within two terms is obtained by firſt getting the following certificate from the gaoler.]

I. E. H. keeper of the county gaol of do certify, that J. H. was, on day of in the year of Our Lord , committed to the county gaol of by virtue of a *latitat* iſſued out of his majeſty's court of K. B. at Weſtminſter, returnable on , at the ſuit of A. B. in a plea of debt for : And I do hereby certify, that ſince ſuch the ſaid J. H's commitment, there has not been delivered to me or my turnkey any declaration againſt him at the ſuit of the ſaid A. B. or any other perſon whatſoever, Gaoler's certificate.

ſoever, and that no *habeas corpus* has been brought for the removal of the ſaid J. H. Witneſs my hand, &c.

[An affidavit of the gaoler's hand to this certificate, if a country goal.]

Affidavit of gaoler's hand to this certificate.

R. B. of, &c. maketh oath, that he this deponent did on the day of , ſee E. H. keeper of his majeſty's gaol in for the county of , ſubſcribe his name to the certificate hereunto annexed, and that at the ſame time, he this deponent ſubſcribed his name as witneſs to the ſaid certificate, and that C. D. of, &c. did then alſo ſubſcribe his name as a witneſs to the ſaid certificate in the preſence of this deponent.

After you have got this certificate and affidavit you muſt get a certificate from the clerk of the declarations of no declaration filed, and then take out a judge's ſummons to ſhew cauſe why the defendant ſhould not be diſcharged by *ſuperſedeas*, for the plaintiff's not declaring in two terms; and on firſt ſummons and affidavit of attendance thereon, the judge will order the *ſuperſedeas* on filing common bail, which order he makes at the bottom of your bail piece, and on paper beſides.

Hab. cor. to remove a cauſe out of an inferior court above five miles from London or Middleſex.

GEORGE the Third, &c. to the mayor, alderman, bailiffs, burgeſſes, and common council of our borough of , in the county of , and every of them, greeting: We command you, and every of you, that you have before us at, &c. on and ſafely and ſecurely conduct the body of T. J. who is ſaid to be detained in our priſon under your cuſtody, together with the day and cauſe of his being taken and detained by whatſoever name he the ſaid T. J. may be therein charged to do and receive all and ſingular thoſe things which our court before us ſhall then and there conſider of in this behalf; and have you, &c. Witneſs, &c.

No *fiat* from the judge now neceſſary.

Hab. cor. cum cauſa, in C. B.

GEORGE the Third, &c. to, &c. We command you, that you have before, &c. one of the juſtices of our court of C. B. at his chambers in Serjeant's Inn, Chancery-lane, immediately after the receipt hereof, the body of D. S. in our priſon under your cuſtody detained, as it is ſaid, by whatſoever name the ſaid D. S. is therein called, together with the day and cauſe of his being taken and detained to do and receive that which our ſaid juſtice ſhall then and there conſider of him in this behalf; and have, &c. Witneſs, &c.

Hab. cor. for a view.

GEORGE, &c. to, &c. We command, &c. our juſtices at Weſtminſter, on or before our juſtices aſſigned, according to the form, &c. to take aſſizes in your county on, &c. at in your county, if they ſhall firſt come, the bodies of the ſeveral perſons named in the panel to this writ annexed, (name them and their additions of a ſpecial jury) being the jurors ſummoned in

in our court before our, &c. between J. M. of, &c. plaintiff, and G. B. of, &c. defendant, of a plea of treſpaſs to make that jury; we command you alſo that you cauſe the place in queſtion to be ſhewn to ſix or more jurors impanelled to try the iſſue in this cauſe, who ſhall be mutually conſented to by the parties or their agents on both ſides above mentioned, upon Tueſday the day of , on or about of the clock in the forenoon of the ſame day, which ſaid jurors ſhall meet at the houſe of , known by the ſign of , at in your county, who ſhall be there refreſhed at the equal charge of both parties, and that M. O. on the part of the plaintiffs, and W. B. on the part of the defendant, ſhall ſhew that place to thoſe jurors, yet no evidence ſhall be then and there given to the ſaid jurors, according to the form, &c. and in what manner you ſhall have executed this our precept you ſhall make known to our juſtices at the aſſizes aforeſaid; and have you, &c. Witneſs, &c.

The return.

I DO hereby certify to the juſtices within written, that by virtue of this writ to me directed on in the ſaid writ mentioned, I had the bodies of (name the ſix jurors) ſix of the jurors choſen to take a view of the place in queſtion upon the ſhewing of M. O. and W. B. in the ſaid writ above named, the reſt of the execution of the ſaid writ appears in a certain panel to the ſame annexed.

Hab. cor. to remove a cauſe from the marſhalſea court.

GEORGE, &c. to our judges of our court of our palace at Weſtminſter, and to every of them, greeting: We command you, that you have the body of J. B. detained in our priſon under your cuſtody, as it is ſaid, by whatſoever name he may be called in the ſame, together with the day and cauſe of his being taken and detained before, &c. one of, &c. at his chambers in, &c. immediately after the receipt of this writ, to do and receive what our ſaid juſtices ſhall then and there conſider in this behalf; and have, &c. Witneſs, &c.

On the bench, by the court. JONES.

The return of the palace court.

[Our anſwer to this writ appears in the ſchedule hereto annexed, Charles, duke of Marlborough, ſteward of the king's houſehold, and J. C. eſquire, marſhal of the ſaid houſehold, and B. D. eſquire, ſteward of the palace court within mentioned, judges of the ſaid court.]

The king's court of palace at Weſtminſter.

WE, Charles, duke of Marlborough, ſteward, &c. J. C. eſquire, &c. and B. D. eſquire, &c. (deſcribing them as above) being the judges of the ſaid court, certify to , one of the king's juſtices of his court of C. B. that before the writ hereunto annexed, came to us, to wit, on the in the ſaid writ named, the ſaid J. B. was taken at Southwark, in and within the juriſdiction

diction of the ſaid court, and is there detained in the king's priſon under our cuſtody, by virtue of a plaint levied againſt him in the ſaid court at the ſuit of C. G. in a plea of treſpaſs on the caſe to the damages of fifty pounds, and this is the cauſe of the taking and detaining the ſaid J. B. in the ſaid priſon under our cuſtody, whoſe body we have ready at the place in the ſaid writ mentioned, as by the ſaid writ we are commanded.

Hab. cor. to remove a perſon in the cuſtody of the ſheriff of Lancaſter.

GEORGE, &c. to the ſheriff, &c. greeting: We command you, that you have under ſafe and ſecure conduct before our right truſty, &c. our chief juſtice, aſſigned to hold pleas in our court before us, at his chambers ſituate, &c. immediately after the receipt of this our writ, the body of E. L. in our priſon under your cuſtody, as it is ſaid, together with the day and cauſe of his being taken and detained, by whatſoever name the ſaid E. L. may be charged in the ſame, to do and receive all and ſingular thoſe things which our chief juſtice ſhall then and there conſider of him in this behalf; and have you there, &c.

Hab. cor to the governor of Tothill Fields Bridewell for a priſoner.

GEORGE, &c. to the governor of Tothill Fields Bridewell, or to his deputy there, greeting: We command you, firmly enjoining you, that you or one of you have before our right truſty, &c. immediately after the receipt of this our writ, the body of W. C. being committed and detained in our priſon under your cuſtody, as it is ſaid, together with the day and cauſe of the taking and detaining of the ſaid W. C. by whatſoever name the ſaid W. C. be called in the ſame, to undergo and receive all and ſingular ſuch things as our ſaid chief juſtice ſhall then and there conſider of concerning him in that behalf; and that you have then there this writ. By the Court. BURROW.

Indorſed by the ſtatute of thirty-firſt Charles II. KENYON.

Hab. cor. to remove a cauſe out of the borough court of Southwark.

GEORGE, &c. to the ſteward of the court of the liberty of the mayor and commonalty and citizens of the city of London of their town and borough of Southwark, in the county of Surry, and alſo to the bailiff of the ſame liberty, greeting: We command you, [Go on as in the *habeas corpus* to the marſhalſea court.]

Hab. cor. to bring up the body of an *infant* detained in the cuſtody of the mother who has married a ſecond huſband.

GEORGE, &c. to J. A. and C. his wife, late C. L. greeting: We command you, that you bring before our right truſty, &c. immediately after the receipt of this our writ, the body of H. L. the infant ſon of you the ſaid C. A. by W. L. late of , deceaſed, (the former huſband of you the ſaid C. A.) and which ſaid H. L. is now detained in your cuſtody, as it is ſaid, to do and receive all and ſingular thoſe things which our ſaid chief juſt ce

juſtice ſhall then and there conſider of him in this behalf. Witneſs, &c.

LEE.

GEORGE, &c. to the ſheriffs of the city of York, and to each of them, greeting: We for certain reaſons being deſirous that our juſtices of the bench ſhould be certified what plaints are levied or affirmed in our court before you, or either of you, againſt J. A. at ſuit of J. W. do therefore command you, and each of you, that all and ſingular the ſaid plaints, together with all things touching the ſame, you diſtinctly and openly ſend to our juſtices at Weſtminſter, from , as fully and amply as the ſame are remaining before you or either of you, by whatſoever names the ſaid parties be called therein, together with this writ, that our ſaid juſtices may cauſe to be further done thereupon what they ſhall think of right ought to be done. Witneſs, &c.

Certiorari, in C. B.

GEORGE, &c. to our chancellor of our county palatine of Lancaſter, or to his deputy there, greeting: We being willing for certain reaſons to be certified on a certain plaint in our court of C. B. for our ſaid county palatine, againſt G. L. at ſuit of H. Z. on a plea of treſpaſs, do command you, that by our writ under the ſeal of our ſaid county palatine duly, &c. to our prothonotary of our ſaid court of C. B. for our ſaid county palatine of Lancaſter, you command the ſame prothonotary, that the plaint aforeſaid, as fully and entirely, with all things touching the ſame, as it remains before him by whatſoever names the ſaid G. L. and H. Z. may be called in the ſame, without delay be certified to you, that you may certify to us at Weſtminſter on, &c. and together with this writ, that you may further cauſe to be done therein, as of right we ſhall ſee fit to be done. Witneſs, &c.

Certiorari to remove a cauſe from the court of C. B. at Lancaſter, to the court of K. B.

The prothonotary of the court of Lancaſter refuſed to allow this *certiorari*, and judgment was ſigned; but it was agreed between the parties not to take out execution till the opinion of the court of B. R. ſhould be known whether a *certiorari* could iſſue out of B. R. to remove a cauſe out of the county palatine in order to bring the matter before the court. An attachment was moved for againſt the prothonotary for not returning the *certiorari*. The matter came before the court in Trinity term 1782, when the court ſaid the prothonotary had done wrong in refuſing to allow the *certiorari*, that he ſhould have ſent up the record, and then have moved to quaſh the *certiorari* as being improperly iſſued. Lord Mansfield ſaid this *certiorari* was irregularly iſſued, that a *certiorari* would lay from the court of B. R. to a county palatine under certain circumſtances; for inſtance, if the parties wanted a trial at bar, but it by no means iſſued of courſe, and could not iſſue in any caſe without a ſpecial application to the court.

GEORGE, &c. to, &c. Whereas B. R. lately in our court before our juſtices at Weſtminſter, by the judgment of the ſame court recovered againſt J. D. late of in your county, yeoman, his

Writ of poſſeſſion, in C. B.

his term yet unexpired of and in one third part of one meſſuage, one cottage, &c. with the appurtenances in , in the pariſh of in your county, which one A. R. on demiſed to the ſaid R. R. for a term of years which is not expired, that is to ſay, from the then laſt paſt to the full end and term of five years then next following, and fully to be complete and ended, by virtue of which ſaid demiſe the ſaid R. R. entered into the tenements aforeſaid, with the appurtenances, and was poſſeſſed thereof until the ſaid J. D. afterwards, that is to ſay, on the ſaid, &c. in the, &c. with force and arms entered into the ſaid tenements, with the appurtenances, and ejected, drove out, and removed the ſaid R. R. from his ſaid farm for the ſaid term then and yet unexpired, and ſtill doth withhold the poſſeſſion of the ſame from the ſaid R. R.; therefore we command you, that without delay you cauſe the ſaid R. R. to have his poſſeſſion of his term yet unexpired of and in the ſaid tenements, with the appurtenances, and in what manner you ſhall have executed this precept you do make appear to our ſaid juſtices at Weſtminſter, on, &c.; and have, &c. Witneſs, &c.

Writ of poſſeſſion on a ſingle demiſe after *ſci. fa.* and *ſci. fa.* returned, and judgment revived againſt the caſual ejector, in B. R.

GEORGE, &c. to, &c. Whereas J. D. lately, &c. before us at Weſtminſter by bill without our writ, and by the judgment of the ſame court recovered againſt R. R. his term yet to come and unexpired of and in one hundred and ſixty acres of land, with the appurtenances, ſituated in your county, which C. S. widow, on the day of , in [If of tithes by deed, ſay "at, &c. by a certain deed poll then and there made between the ſaid of the one part, and the ſaid on the other part, had demiſed, granted, and to farm let unto"] demiſed to the ſaid J. D. for a term of years not yet expired, that is to ſay, from, &c. from thence next enſuing, &c. by virtue of which ſaid demiſe the ſaid J. D. entered upon the ſaid tenements, with the appurtenances, and was poſſeſſed thereof until the ſaid Richard Roe afterwards, to wit, on the ſaid, &c. with force and arms entered into the ſaid tenements aforeſaid, with the appurtenances, in and upon the poſſeſſion of him the ſaid John Doe, and ejected, drove out, and removed the ſaid J. D. from his ſaid farm, his ſaid term therein not being unexpired, and him the ſaid J. D. ſo ejected, driven out, and removed, hath kept out, and doth yet keep out of his poſſeſſion thereof, whereof the ſaid R. R. is convicted, as, &c. and whereof in our ſame court before us it is conſidered, that the ſaid J. D. has againſt the ſaid R. R. his execution of the judgment aforeſaid, according to the force, form, and effect of the ſaid recovery, as it appears alſo to us on record, therefore we command you, that without delay you cauſe the ſaid J. D. to have his poſſeſſion of his ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, and in what manner you ſhall have executed this our precept certify to us at Weſtminſter on, &c.; and have, &c. Witneſs, &c.

GEORGE,

Writ of poſſeſſion in Lancaſter.

GEORGE, &c. to our chancellor, &c. Whereas J. G. lately in our court before, &c. by bill without our writ, and by the judgment of the ſame court recovered againſt R. B. his term yet to come of and in one meſſuage, &c. with the appurtenances, ſituated, &c. which J. S. on the day of , in the year of our reign demiſed unto the ſaid J. G. for a term of years which is not yet expired, to wit, from the, &c. from thence, &c. by virtue of which demiſe the ſaid J. G. entered upon the ſame tenements, with the appurtenances, and was thereof poſſeſſed until the ſaid R. B. afterwards, to wit, on the, &c. at aforeſaid, with force and arms entered upon the ſame premiſes, with the appurtenances, in and upon the poſſeſſion of the ſaid J. G. and ejected, drove out, and removed him the ſaid J. G. ſo ejected, driven out, and removed, hath kept, and ſtill doth keep out from his poſſeſſion thereof, whereof the ſaid R. B. is convicted, as appears, &c.; therefore we command you, that by our writ under the ſeal of our ſaid county palatine, duly, &c. to the ſheriff of the ſame county, you command the ſame ſheriff that without delay he cauſe the ſaid J. G. to have poſſeſſion of his term aforeſaid yet to come of and in the tenements aforeſaid, with the appurtenances, and in what manner you, &c. make appear to, &c.; and have, &c. Witneſs, &c.

Writ of inquiry in aſſumpſit, B. R.

GEORGE, &c. to, &c. Whereas E. M. doctor of laws, lately in our court before us at Weſtminſter, by his bill without our writ, impleaded T. W. being in the cuſtody of the marſhal of the marſhalſea before us for this, to wit, that whereas [Follow the declaration *verbatim*, only ſaying inſtead of " in the year of our reign, &c." in the [If it is in the declaration " in the year of Our Lord, &c." ſay ſo, and not in the twelfth year of our reign] twelfth year of our reign, to the damage of the ſaid E. M. of pounds, as he has alledged, and thereupon he hath brought his ſuit, and ſuch proceedings have been thereupon had in our ſame court before us, that the ſaid E. M. ought to recover his damages againſt the ſaid T. W. occaſioned by the not performing the promiſes and undertakings before mentioned; but becauſe it is not known to our court before us what damages the ſaid E. M. hath in that behalf ſuſtained; therefore we command you, that by the oath of twelve honeſt and lawful men of your bailiwick, you diligently inquire what damages the ſaid E. M. hath ſuſtained, as well by reaſon of the not performing, &c. as for his coſts, &c. laid out by him about his ſuit in this behalf, and that you make a return of the inquiſition which you ſhall take thereon to us at Weſtminſter, on under your ſeal and the ſeals of thoſe by whoſe oath you ſhall take that inquiſition, and have, &c. Witneſs, &c.

Writ of inquiry, in C. B.

GEORGE, &c. to, &c. Whereas C. D. late of, &c. in your county hath been attached in our court before our juſtices at Weſtminſter, to anſwer to A. B. of a plea, that whereas [And ſo on to the end of the declaration, leaving out as often as you find the words "in your county aforeſaid," and when you come to the end, inſtead of "and therefore he brings ſuit, &c." ſay, "as it is ſaid," and then in the ſame line go on thus], and ſuch proceedings have been had in our ſaid court, that the ſaid A. B. ought to recover his damages againſt the ſaid C. D. occaſioned "by the not performing, &c." in aſſumpſit, or otherwiſe as the caſe is; but becauſe our ſaid court doth not know what damages the ſaid A. B. hath ſuſtained in this behalf, we command you, that by the oath of twelve good and lawful men of your county you diligently inquire what damages the ſaid A. B. hath ſuſtained, as well by reaſon of the not performing, &c. as for his coſts and charges laid out by him about his ſuit in this behalf; and that you make appear the inquiſition which you ſhall take thereon before our juſtices at Weſtminſter, on, &c. under your ſeal, and the ſeals of thoſe by whoſe oath you ſhall take that inquiſition, ſending back unto our ſaid juſtices this writ. Witneſs, &c.

[If the defendant be an attorney, ſay, "Whereas J. B. clerk, lately in our court before our juſtices of the bench at Weſtminſter, exhibited to our ſame juſtices his certain bill againſt P. W. gentleman, one of the attornies of our court of the bench aforeſaid, preſent here in court in his proper perſon, of a plea, that whereas, &c. [Go on with the declaration, return on a day certain, &c.]

[If at the ſuit of an attorney, ſay, "Whereas W. J. was attached by our writ of privilege iſſuing out of our court here, to be before our juſtices at Weſtminſter, to anſwer S. P. one of the attornies of the bench here, according to the liberties and privileges of the ſaid court for ſuch attornies and other officers, miniſters, &c. for time immemorial uſed and approved of in the ſaid court, for that, to wit, that whereas [As before, writ returnable on a day certain.]

Writ of inquiry in covenant, in C. B.

GEORGE, &c. to, &c. Whereas W. R. late of, &c. yeoman, was ſummoned to be in our court before our juſtices at Weſtminſter, to anſwer unto A. B. of a plea, that he keep with him the ſaid A. B. the covenant made between the ſaid A. B. and W. R. according to the force, form, and effect of a certain indenture thereof made, &c. for that whereas, &c. [As in the declaration,] to the ſaid A. B. his damages of pounds, as it is ſaid; and ſuch proceedings have been thereupon had in our ſaid court, that the ſaid A. B. ought to recover his damages againſt the ſaid W. R. by reaſon of the breach of covenant aforeſaid, but becauſe it is not known to our ſaid court what damages the ſaid A. B. has ſuſtained by reaſon of the breach of covenant aforeſaid, we command you,

you, that by the oath of twelve good and lawful men of your county you diligently inquire what damages the ſaid A. B. hath ſuſtained, as well by occaſion of the breach of covenant aforeſaid, as for his coſts, &c. laid out by him about his ſuit in this behalf, and that you make appear the inquiſition which you ſhall take thereof before our juſtices at Weſtminſter, on , under your ſeal, and the ſeals of thoſe by whoſe oath you ſhall take that inquiſition, ſending back unto our ſaid juſtices this writ. Witneſs, &c.

Writ of inquiry into Lancaſter in aſſumpſit, in B. R.

GEORGE, &c. to our chancellor, &c. there greeting: Whereas W. H. lately in our court before us at Weſtminſter, by his bill without our writ, impleaded J. R. being in the cuſtody of our marſhal of the marſhalſea before us for this, to wit, that whereas [As in the declaration to the end *verbatim*,] to the damage of the ſaid W. H. of pounds, as he hath alledged, and ſuch proceedings have been thereupon had in our ſame court before us, that the ſaid W. H. ought to recover his damages againſt the ſaid J. R. occaſioned by his not performing the promiſes and undertakings before mentioned, but becauſe it is not known to our court before us what damages the ſaid W. H. hath in this behalf ſuſtained; therefore we command you, that by our writ under the ſeal of our ſaid county palatine duly, &c. to the ſheriff of the ſame county, you command the ſame ſheriff, that by the oath, &c. of his bailiwick, he diligently, &c. as for his coſts and charges laid out by him about his ſuit in this behalf, and the inquiſition which he thereof ſhall do you make appear to us at Weſtminſter, on , &c. under his ſeal, and the ſeals of thoſe by whoſe oath he ſhall take that inquiſition; and have you, &c. Witneſs, &c.

Writ of *ſupplicavit* out of chancery on articles exhibited.

GEORGE, &c. to the ſheriffs of London, and alſo to the keeper of the peace within the ſaid city, greeting: E. the wife of J. B. hath ſupplicated us, that whereas ſhe is grievouſly and manifeſtly menaced of her limbs by the ſaid J. B. we would provide for the ſecurity of her the ſaid E. in this behalf, we yielding to the ſupplication aforeſaid firmly enjoining do command you, and every of you, that one of you cauſe the aforeſaid J. B. to come before you, or one of you, and that you, or one of you, compel him to find ſufficient manucaptors who him will mainprize, under certain pains on him by you, or one of you, reaſonably to be for which to us, you, or one of you, will anſwer that he ſhall not do, or procure to be done, any damage or hurt to the ſaid E. or her body in any manner, and if he ſhall refuſe to do this before you, or one of you, then do you, or one of you, commit him the ſaid J. B. to our next gaol, to be ſafely kept in the ſame until he ſhall do this freely; and when you, or one of you, ſhall have taken ſuch ſecurity, then to make us more certain do you, or one of you, certify to our ſheriff without delay into our chancery diſtinctly

tinctly and openly under your ſeal of one of your ſeals, you, or one of you, remitting to us this writ; and this you, or any of you, are not to omit. Witneſs, &c.

(Indorſed thus)—By an order of the court of chancery upon articles exhibited and affiled in the ſame court upon oath, pounds ſecurity by the ſaid J. B. and his ſurety to give ſecurity in the like ſum of pounds.

Write thus upon the label—" To the ſheriffs and keepers of the peace of London, on a *ſupplicavit* for E. B. againſt her huſband."

SNOW.

Subpœna out of the court of exchequer.

GEORGE, &c. to P. C. greeting: We command you, and ſtrictly enjoin, that immediately after the receipt of this our writ or notice hereof, you pay or cauſe to be paid to R. W. or his aſſigns in that behalf, the bearer hereof the ſum of of lawful money of Great Britain, and aſſeſſed upon you by our court of exchequer at Weſtminſter allowed to the ſaid R. W. for his coſts and charges by him at your ſuit unjuſtly ſuſtained in our court; and this you omit not under the penalty of one hunderd pounds, which if you neglect this our command, we ſhall cauſe to be levied to our uſe on your goods and chattels, lands and tenements. Witneſs ſir James Eyre, knight, the day of , in the year of our reign, by the allowance of our ſaid deputy remembrancer, and by the barons.

MARSHAM.

Subpœna at the aſſizes *ad teſtificandum*, on an indictment for a miſdemeanor.

GEORGE, &c. to A. B. C. D. E. F. and G. H. and to every of them, greeting: We command you, and every of you, firmly enjoining, that laying aſide all excuſes and pretences whatſoever, you, and every of you, perſonally be and appear before our juſtices affigned to hold the aſſizes in and for our county of , to deliver the gaol of the ſame county of the priſoners therein being, on Saturday the twenty-third of March next, at , there to teſtify the truth between us and John Morris, for certain treſpaſſes, contempts, and miſdemeanors, whereof he is indicted on the part of the defendant, and this you, or any one of you, are not to omit under the penalty of one hundred pounds, to be levied on the goods and chattels, lands and tenements, of ſuch of you as ſhall fail herein. Witneſs Lloyd lord Kenyon, the day of , in the year of our reign. By the court.

BURROW.

Subpœna ad teſtificandum.

GEORGE, &c. to, &c. We command you, and every of you, firmly enjoining you that laying aſide all and all manner of buſineſs and excuſes whatſoever, you, and every of you, be in your proper perſons before our juſtices affigned to take the aſſizes

in the county of [If in Briſtol, ſay "in the city of Briſtol, in the county of the ſame city,] on the day of next at in the ſaid county, to teſtify all and ſingular thoſe things which you, or either of you, know in a certain action now depending and undetermined in our court before us between A. B. plaintiff, and C. D. defendant, of a plea of , on that day to be tried by a jury of the country, and this you, and every of you, are in no wiſe to omit, under the penalty of one hundred pounds of every of you. Witneſs, &c. [as before.] [If in London ſay,] before our truſty and well beloved the right honourable , our chief juſtice aſſigned to hold pleas in our court before us on the day of at Guildhall, London; [If in Middleſex, ſay] before our truſty [And as before in London, till] on the day of at Weſtminſter, in the great hall of pleas called Weſtminſter Hall.

[As before, till "to be tried by a jury of the country," and then go on as follows]; and that you then there bring with you and produce before our ſaid juſtices there a certain indenture *tripartite* dated the day of made between A. B. of, &c. of the firſt part, C. D. of the ſecond part, and E. F. of, &c. of the third part now in your cuſtody, and all other deeds, evidences, and writings which you have in your cuſtody or power concerning the premiſes, and this you are in no wiſe to omit. [As before] *Subpœna duces tecum* of a deed.

GEORGE, &c. to, &c. greeting: We command you, and every of you, firmly enjoining you, that laying aſide all and all manner of buſineſs and excuſes whatſoever, you, and every of you, be in your proper perſons before the ſheriff of our county of on the day of next following, at in the ſaid county of to teſtify all and ſingular thoſe things which you, or either of you, know in a certain action depending in our court before us, between A. B. plaintiff, and C. D. defendant, in a plea of , on which ſaid action a writ of inquiry of damages is then and there to be finally executed, and this you, and every of you, are in no wiſe to omit, under the penalty of one hundred pounds of every of you. Witneſs, &c. *Subpœna* upon a writ of inquiry.

GEORGE, &c. to, &c. greeting: We command you, and every of you, firmly enjoining you, that laying aſide all and all manner of buſineſs and excuſes whatſoever, you, and every of you be in your proper perſons before our truſty and well beloved the right honourable Lloyd lord Kenyon, our chief juſtice aſſigned to hold pleas in our court before us, on the day of next, at Guildhall, London, to teſtify all and ſingular thoſe things which you, or either of you, know in a certain action now depending and undetermined in our court before us, between C. H. and N. H. plaintiffs, and A. G. defendant, of a plea of treſpaſs *Subpœna duces tecum* books and papers reſpecting freight and ſale of a ſhip conſigned, &c.

upon the caſe, and on that day to be tried by a jury of the country, and that you then and there bring with you and produce before our chief juſtice all and ſingular the books and papers belonging to the late J. and D. that in any manner relate to or concern the freight and ſale of the ſhip or veſſel called the Sally, commanded by captain George Porter, and conſigned by the late T. D. of the iſland of Montſerrat, unto the ſaid J. and D. and by them ſold and diſpoſed of for and on the account of the ſaid T. D.; and all other evidences and writings which you, or either of you, have in your cuſtody or power concerning the premiſes, and this you are in no wiſe to omit, under the penalty of one hundred pounds of every of you. Witneſs, &c.

Form of an agreement not to bring writ of error, &c. where final judgment had been ſigned.

In the king's bench. Between { JOHN DAVENPORT, plaintiff, and EDW. ASHURST, defendant.

WHEREAS the ſaid plaintiff hath in this preſent Eaſter term ſigned final judgment againſt me for damages and coſts, but having at my ſpecial inſtance and requeſt conſented not to take out any execution thereon until the firſt day of May next, upon my undertaking not to bring a writ of error, or file a bill in equity in conſideration of the premiſes, I do hereby promiſe that no writ or writs of error ſhall be commenced or proſecuted by me or any one on my behalf to reverſe the ſaid judgment, or to retard or to delay the execution thereof, and further that no bill ſhall be filed, nor any ſuit be inſtituted in any of the courts of equity by me or any other perſon againſt the ſaid John Davenport, either for an injunction to ſtay the iſſuing of any execution upon the ſaid judgment, or for any other purpoſe whatſoever, touching or in any wiſe concerning the ſaid judgment in the money or any part thereof recovered therein; and in order the more effectually to enable the ſaid John Davenport to carry ſuch my agreement into execution, I do hereby authorize and empower Henry Townley Ward, attorney for the ſaid John Davenport, or any other attorney, to *non proſ.* any writ or writs of error that ſhall or may be brought by me or any other perſon to reverſe or ſet aſide the ſaid judgment, or for me or in my name to diſcontinue the proſecution of any writ or writs of error, and to do any other acts for that purpoſe, and alſo to diſmiſs or diſcontinue any ſuit or ſuits in equity that ſhall or may be inſtituted by me againſt the ſaid John Davenport, touching or in any wiſe concerning the ſaid judgment or the monies recovered thereon as aforeſaid, as witneſs my hand, &c.

Levari facias againſt bail on judgment on *ſci. fa.* after plea, and for coſts after *fi. fa.*

GEORGE, &c. We command you, that of the goods and chattels of R. B. late of, &c. you cauſe to be made twenty-three pounds and eightpence, of the lands and chattels of B. H. late of, &c. you cauſe to be made the like ſum of twenty-three pounds and eightpence, in which ſaid ſum of twenty-three pounds and eightpence,

eightpence, the ſaid R. and B. lately in our court before our juſtices at Lancaſter undertook, and each of them by himſelf did undertake for T. B. late of, &c.; and the ſame R. and B. acknowledged that the ſame ſum ſhould be levied upon his and their lands and chattels, to the uſe and behoof of J. P. as it appears to us upon record; and alſo of the lands and chattels of the ſaid R. and B. you alſo cauſe to be made twenty-three pounds and eightpence, which to the ſame J. S. in our court according to the form of the ſtatute in ſuch caſe made and provided were adjudged for his coſts and charges by him about his ſuit in that behalf laid out; and that you have the ſeveral ſums of twenty-three pounds and eightpence, twenty-three pounds and eightpence, and twenty-three pounds ſixteen ſhillings and eightpence, before our juſtices at Lancaſter, the firſt day of, &c. to render to the ſaid J. S. according to the recognizance, and for his coſts and charges, whereof the ſaid R. and B. are convicted; and whereupon it is conſidered in our ſaid court, that the ſaid J. have execution againſt the ſaid R. and B. of the aforeſaid ſeveral ſums by them in form aforeſaid acknowledged, and of the coſts and charges aforeſaid, to be levied of their lands and chattels reſpectively as aforeſaid; and have you there this writ. Witneſs, &c.

Fi. fa. againſt bail after judgment by default on *ſci. fa.*

GEORGE, &c. to the ſheriff of Lancaſter, greeting: We command you, that of the goods and chattels of J. F. late of and B. B. late of the bail of W. B. in your bailiwick, you cauſe to be made twenty-one pounds eighteen ſhillings and twopence, which L. D. lately in our court before our juſtices at Lancaſter recovered againſt the ſaid W. B. for his damages which he had ſuſtained, as well by reaſon of not performing certain promiſes and undertakings by him the ſaid W. B. to the ſaid L. D. lately made, as for his coſts and charges by him about his ſuit in this behalf expended, whereof the ſaid W. is convicted, as by the record and proceedings thereof in the ſame court remaining manifeſtly appears; whereof it is conſidered that the ſaid L. D. may have his execution againſt the ſaid J. and B. for the damages, coſts, and charges aforeſaid, according to the form and effect of a certain recognizance by them the ſaid J. and B. in our ſaid court before our ſaid juſtices at Lancaſter, for the ſaid W. B. at the ſuit of the ſaid L. D. in the ſuit aforeſaid acknowledged, as by the record and proceedings aforeſaid likewiſe appears; and have you that money before our juſtices at Lancaſter, the firſt day of the next general, &c. to be paid to the ſaid L. D. for his damages, coſts, and charges aforeſaid; and have, &c. Witneſs, &c.

If an executor plead *ne unques executor*, and if it be found for the plaintiff, the *fi. fa.* ſhall be *de bonis propriis*; but if he pleads *plene adminiſtravit*, and it be found for the plaintiff, then the *fi. fa.* ſhall be of the goods of the teſtator.

If the judgment be againſt an executor, then you muſt of neceſſity firſt have a *fi. fa. de bonis teſtatoris*, ſo alſo againſt an adminiſtrator, and if the ſheriffs ſhall return a *devaſtavit* thereon, then you may have a *ca. ſa.* againſt the body of the defendant, or elſe a

fieri facias ae bonis propriis, or an *elegit*.

But it is uſed moſt commonly after a *devaſtavit* returned firſt to take a *fi. fa. de bonis propriis*, and to cauſe the ſheriff to return upon it *nulla habet bona*, and then to have a *ca. ſa.* againſt his body; but the *ca. ſa.* may be firſt if the plaintiff pleaſes by law.

It was reſolved by the court, that although the ſheriff cannot break open a houſe to take execution by a *fi. fa.* yet if when the door is open he enters in and is diſturbed by his execution by the parties who are within the houſe, he may break the houſe, reſcue his bailiff, and take execution, Abr. Cro. Rep. 5.

If there be judgment againſt a man, who ſells his goods before execution, theſe goods are not liable to a *fi. fa.* otherwiſe in debt concerning lands aliened, 102. Abr. Co. Lit. Upon judgment againſt an executor or adminiſtrator, the plaintiff cannot have a *ca. ſa.* againſt the body, but a *fi. fa. de bonis teſtatoris*; and if the ſheriff do return a *devaſtavit*, then a *ca. ſa.* lies againſt the body of the executor or adminiſtrator, or a *fi. fa.* againſt the goods, Bulſt. 2. 63. 98.

Debt on a bond againſt an heir, and judgment by *nihil dicit*, if upon motion, the judgment being entered ſpecially, and on prayer there be a ſpecial execution, it will charge the lands from the *teſte* of the original; on a general one they might be aliened before execution, Carth. 50; Tho. 83; 2. Sho 70; 9. Comb. 162; 7. Mod. 44; 2. Rol. 71. 50; *See* Co. Lit. 102, 103, 104; ſtat. W. and M. of frauds by alienation, &c.; 2. Sho. 174.

A year after date of the warrant of attorney to confeſs judgment, the judgment not to be entered upon in B. R. without proof that parties are alive and debt unſatisfied, 2. Sho. 252; 7. Mod. 2. 94; 5. Salkeld, 87. (or 67.)

Upon a demurrer, it appearing on the pleadings that execution was levied before the judgment was ſigned, though after the firſt day of the term, to which the judgment related, and after the *teſte* of the *fi. fa.* yet held nought, 2. Sho. 494. Agreed by the court, that on *fi. fa.* that when once the officers are in the houſe, they may break open any chamber, doors, or trunks, for doing their execution, 2. Sho. 87.

Theſe three writs ought to be ſued within a year and a day after judgment iſſued out within the year, and they may be continued after the year till execution. And to none of theſe writs defendant can plead to diſcharge himſelf of execution, as if plaintiff after judgment releaſed to the defendant all executions, but is driven to his *audita querela*. 4. Leon. 197. 373; 2. Inſt. 471; Dy. 214; 1. Rol. 104; 3. Cro. 10; 3. Cro. 112; Reg. 299; 2. Sho. 235; otherwiſe as to an *elegit* becauſe continuances are entered all along from the judgment.

Upon motion for reſtitution to a poſſeſſion which the party had been put out of by colour of a *fi. fa.* and ſells a leaſe or term of a houſe, you cannot and muſt not put the perſon out of poſſeſſion and the vendee in, but the vendee muſt bring his ejectment, 2. Sho. 85.

Held, that after a *fi. fa.* delivered to the ſheriff, and executed after the defendant's death, if it be teſted before is good, notwithſtanding the ſtatute of frauds and perjuries, they being intended only for the benefit of purchaſers and ſtrangers, and not of the party or his executors, Skin. 257; 7. Mod. 681; Cro. 159; 2. Sho. 482.

Upon the allowance of an *audita querela* ſuggeſting a releaſe, the releaſe ought to be produced under ſeal, and received and approved in court by witneſs *viva voce*, Salk. 92. 1. Ro. 133.

No *audita querela* ought to be allowed but in open court, *Idem.* 239, 240. It is a rule that you never ſhall have an *audita querela* upon any cauſe whereof you might have taken advantage by plea before judgment.

Fi fa. after *ſci. fa.* in *aſſumpſit*

GEORGE, &c. We command you, that of the goods and chattels of J. T. late of, &c. in your bailiwick, you cauſe to be made ſixteen pounds two ſhillings and fivepence, which to J. B. lately in our court before our juſtices at Lancaſter were adjudged for

for his damages which he hath ſuſtained, as well by occaſion of the not performing of ſeveral promiſes and undertakings by the ſaid J. T. at P. in your county made, as for his coſts and charges by him about his ſuit in this behalf expended; and that you have that money before our juſtices at Lancaſter, the firſt day of, &c. there to be holden, to render to the aforeſaid J. B. of the damages aforeſaid, whereof the ſaid J. T. is convicted, as appears to us of record; and whereupon it is conſidered in our ſaid court, that the ſaid J. B. have his execution againſt the ſaid J. T. of the damages aforeſaid, according to the form and effect of the recovery aforeſaid, by default of the ſaid J. T.; and have, &c.

(a) *Alias* writ of *fi. fa.* and ſheriff's return of *nulla bona.*

GEORGE, &c. to the ſheriff, &c. Whereas by our writ, we heretofore commanded our then ſheriff of Lancaſter, that of the goods and chattels of P. W. late of Wygan in this county, butcher, in his bailiwick, he cauſe to be made as well a certain debt which G. Y. lately in our court before our juſtices at Lancaſter recovered againſt him, as twenty-ſix ſhillings and eightpence, which to the ſaid G. Y. in our ſame court were adjudged for his damages which he had ſuſtained by reaſon of the detention of that debt, and that he ſhould have that money before our juſtices at Lancaſter at a certain day now paſt, to render to the ſaid G. the debt and damages aforeſaid, whereof he is convicted; and at that day the ſame ſheriff, to wit, John Atherton, eſquire, returned to our juſtices at Lancaſter, that he had cauſed to be made of the goods and chattels of the ſaid P. the ſum of five pounds one ſhilling and ſixpence, which money he had ready at the day and place aforeſaid, and that the aforeſaid P. hath no more goods or chattels.

(a) This form is not completed.

Ca. ſa. againſt bail after judgment by default in *aſſumpſit* on *ſci fa.*

GEORGE the Third, &c. to, &c. We command you, that you take A. B. of , and C. D. of , the bail of E. F. if they may be found in your bailiwick, and them ſafely keep, ſo that you may have their bodies before us at Weſtminſter, on next after , to ſatisfy G. H. which the ſaid G. H. hath lately recovered againſt the ſaid E. F. in our ſaid court before us for his damages by him ſuſtained, as well on occaſion of the not performing certain promiſes and undertakings made by the ſaid E. F. to the ſaid G. H. as for his coſts and charges by him laid out about his ſuit in that behalf, whereof the ſaid E. F. hath been convicted, as appears to us on record; and whereupon it hath been conſidered in our ſaid court before us at Weſtminſter, that the ſaid G. H. ſhould have his execution againſt the ſaid A. B. and C. D. in our ſaid court before us at Weſtminſter aforeſaid, for the damages, coſts, and charges aforeſaid, according to the force, form, and effect of a certain recognizance by them the ſaid A. B. and C. D. in our ſaid court before us at Weſtminſter, for the ſaid E. F. at the ſuit of the ſaid G. H. in the ſuit aforeſaid

acknowledged by the defendant of them the ſaid A. B. and C. D. as it likewiſe appears to us on record; and alſo to ſatisfy the ſaid G. H. for his damages, coſts, and charges which the ſaid G. H. hath had and been put unto on occaſion of the ſaid A. B. and C. D. they having pleaded to our writ of *ſcire facias* ſued out againſt them at the ſuit of the ſaid G. H. in that behalf, whereof the ſaid A. B. and C. D. have been convicted, as alſo appears to us on record; and have, &c. Witneſs, &c.

Teſt. fi. fa. at ſuit of executors after *ſci. fa.* in C. B. in debt.

GEORGE the Third, &c. to, &c.: We command you that you cauſe, &c. one of your bail of T. A. late of &c. as well a certain debt of pounds, which G. S. lately deceaſed, in his lifetime recovered againſt him in our court before, &c. as pounds, which in our ſame court were awarded to the ſaid G. S. in his lifetime, for his damages which he ſuſtained by reaſon of the detaining that debt; and have you that money before our, &c. in , to render to W. D. executor, &c. of the ſaid G. S. deceaſed, for the debt and damages aforeſaid, whereof the ſaid T. A. is convicted; and thereupon it is conſidered in our ſaid court that the ſaid W. D. have execution againſt the ſaid T. A. of the debt, &c. by his the ſaid ; and have, &c.

Fi. fa. in *aſſumpſit* after *alias ſci. fa.* and execution awarded againſt the bail, in B. R.

GEORGE, &c. to, &c.: We command you that of the, &c. of W. S. &c. and W. P. of, &c. the bail of G. C. in your bailiwick you cauſe to be made pounds, which J. F. late in our court before us recovered againſt the ſaid G. C. for his damages which he had ſuſtained, as well on account of not performing, &c. by the ſaid G. C. to the ſaid J. E. lately made, as for his coſts, &c. whereof the ſaid G. C. has been convicted, as appears, &c. and whereof in our ſame court before, &c. it is conſidered that the ſaid J. E. have execution againſt the ſaid W. S. and W. P. for the damages aforeſaid, according to the force, form, and effect of a certain recognizance by them the ſaid W. S. and W. P. in our ſaid court before us for the ſaid G. C. at the ſuit of the ſaid J. E. in the ſuit aforeſaid acknowledged, as it likewiſe appears, &c.; and have that money before, &c. on to be paid to the ſaid J. E. for his damages, &c.; and have, &c. Witneſs, &c.

Non omittas fi. fa. againſt an attorney in caſe on promiſes, in B. R.

GEORGE the Third, &c. to, &c.: We command you that you do not omit by reaſon of any liberty in your county, but that you enter the ſame, and of the, &c. of A. R. gentleman, one of the attornies of our court, before us preſent in our ſaid court in his proper perſon, in your bailiwick, you cauſe to be made pounds, which T. B. lately in our court before us at Weſtminſter recovered againſt him for his damages which he has ſuſtained, as well by reaſon, &c. lately made by the ſaid A. R. to the ſaid T. B.

T. B. as for his coſts, &c. whereof the ſaid A. R. is convicted, as appears, &c.; and have you that money before us, &c. on to render to the ſaid T. B. for his damages aforeſaid; and have, &c. Witneſs, &c.

GEORGE, &c. to our chamberlain, &c.: We command you that by our writ, &c. you command the ſame ſheriff that he cauſe to be made, &c. of J. P. in his bailiwick pounds, which to E. B. in our court before, &c. were adjudged, &c. which he had ſuſtained, as well, &c. made by the ſaid J. P. and the ſaid E. B.; and that the ſaid ſheriff have that money before, &c. on , to render to the ſaid E. B. for his damages whereof the ſaid J. P. is convicted; and have, &c. Witneſs, &c.

Fi. fa. in caſe, in the county palatine of Cheſter, in C. B.

GEORGE the Third, &c. to our chancellor, &c.: Whereas we lately commanded our ſheriff of Middleſex, that of, &c. of J. P. and T. F. the bail of J. M. he ſhould cauſe to be made pounds which A. M. lately in our court before, &c. recovered againſt the ſaid J. M. for a debt, and alſo pounds, which to the ſaid A. M. lately in our court before us were adjudged for her damages which ſhe had ſuſtained, as well on occaſion of detaining that debt as for her coſts, &c. whereof the ſaid J. M. has been convicted, as appears, &c. and whereof in our ſame court before, &c. it is conſidered that the ſaid A. M. have execution againſt the ſaid J. P. and T. F. for the debt and damages aforeſaid, according, &c. by them the ſaid J. P. and T. F. in our ſaid court before us for the ſaid J. M. at the ſuit of the ſaid A. M. in the aforeſaid ſuit acknowledged, as it likewiſe appears, &c.; and that the ſaid ſheriff ſhould have that money before, &c. at a certain day, &c. to render to the ſaid A. M. for her debt, &c.; and our ſaid ſheriff of Middleſex, at that day returned to us that the aforeſaid J. P. and T. F. has not, nor had either of them any goods, &c. in his bailiwick whereof he could cauſe to be made the debt and damages aforeſaid, or any part thereof; whereupon on the behalf of the ſaid A. M. it is ſufficiently teſtified in our ſaid court before us, that the ſaid J. P. and T. F. have ſufficient goods, &c. in your bailiwick whereof the debt and damages aforeſaid may be made and levied; therefore we command you, that by our writ, &c. you command the ſame ſheriff, that of the, &c. of the ſaid J. P. and T. F. in his bailiwick he cauſe the ſaid debt and damages to be made, &c. &c ſo that, &c. that money before, &c. on , to render to the ſaid A. M. for the, &c.; and have, &c. Witneſs, &c.

Teſt. fi. fa. againſt bail, from Middleſex to Lancaſter, in B. R.

GEORGE the Third, &c. to, &c.: Whereas we lately commanded our ſheriff of Middleſex, that of, &c. of J. C. the bail of J. O. in his bailiwick, he ſhould cauſe to be made , which J. F. lately in our court before, &c. recovered againſt the ſaid J. O. for

Teſt. fi. fa. againſt bail, out of Middleſex into Yorkſhire, in B. R.

for his damages which he had ſuſtained, as well by reaſon of, &c. as for his coſts, &c. whereof the ſaid J. O. has been convicted, as appears, &c. and whereof in our ſame court before, &c. it has been conſidered that the aforeſaid J. F. ſhould have his execution againſt the ſaid J. O. for the damages, coſts, and charges aforeſaid, according, &c. by him the ſaid J. O. in our ſaid court before, &c. for the ſaid J. O. at the ſuit of the ſaid J. F. in the ſuit aforeſaid acknowledged, by the default of him the ſaid J. O. as it likewiſe appears, &c. and alſo to ſatisfy the ſaid J. F. for his, &c. which the ſaid J. F. hath had and been put unto on account of the ſaid J. O. having pleaded to our writ of *ſcire facias* ſued out againſt him at the ſuit of the ſaid J. F. in that behalf, whereof the ſaid J. O. hath alſo been convicted, as alſo appears, &c.; and that the ſaid ſheriff ſhould have that money before, &c. at a certain day now paſt, to render to the ſaid J. F. for his damages, coſts, and charges aforeſaid; and our ſaid ſheriff of Middleſex at that day returned to us, that the aforeſaid J. C. had not any goods and chattels in his bailiwick whereof he could cauſe to be made his debt and damages, &c. or any part thereof; whereupon on the behalf of the ſaid J. F. it is ſufficiently teſtified in our ſaid court before us, that the ſaid J. C. has ſufficient goods and chattels in your bailiwick whereof the damages aforeſaid, &c. may be made and levied; wherefore we command you, that of &c. of the ſaid J. C. in your bailiwick you cauſe the damages, &c. to be made and levied, ſo that you, &c. have that money before, &c. on , to render to the ſaid J. F. for the damages, coſts, and charges aforeſaid; and have you, &c. Witneſs, &c.

Teſt. fi. fa. de bonis eccleſiaſticis to the biſhop of Worceſter, in order to ſequeſtrate the defendant's living, in B. R.

GEORGE the Third, &c. to the right reverend father in God James lord biſhop of Worceſter, greeting: We command you, that of the eccleſiaſtical goods of J. W. vicar of the pariſh church of B. in our county of Worceſter in your dioceſe you cauſe to be made, which J. D. lately in our court before us at Weſtminſter recovered againſt him, and alſo pounds, coſts, which to the ſaid J. D. in our ſaid court before us were adjudged for his damages which he ſuſtained, as well by reaſon of the detention of that debt as for his, &c. whereof the ſaid J. W. is convicted, as appears, &c. and whereof in our court before us at Weſtminſter it is conſidered that the ſaid J. D. may have his execution againſt the ſaid J. W. for the debt and damages aforeſaid; and have that money before us at Weſtminſter on next after , to be paid to the ſaid J. D. for his, &c. and whereof our ſheriff of Middleſex hath returned to us at Weſtminſter on in this ſame term, the ſaid J. W. had not any goods in his bailiwick whereof he could cauſe to be made the debt and damages aforeſaid, or any part thereof, and did certify that the ſaid J. W. was a beneficed clerk, to wit, vicar of the pariſh and pariſh church of B. in our county of Worceſter in your dioceſe; and have, &c. Witneſs, &c.

Teſted any day after return of the firſt writ.

GEORGE

GEORGE the Third, &c. to the ſheriff of Yorkſhire, greeting: Whereas we lately commanded our chancellor of our county palatine of Lancaſter, that he, by virtue of our writ to him directed, ſhould by another writ under the ſeal of our county palatine of Lancaſter to be duly made out, and to be directed, &c. of the ſaid county palatine, ſhould command the ſame ſheriff, that of the goods, &c. of J. P. in his bailiwick he ſhould cauſe to be made pounds, which J. K. lately in our court before us recovered againſt him for a debt, and alſo pounds, which to the ſaid J. K. lately in our ſaid court before us were adjudged for his damages which he had ſuſtained, as well by reaſon of the detaining that debt as for his coſts, &c. whereof the ſaid J. P. was convicted, as appears, &c.; and that the ſaid chancellor ſhould have that money before, &c. at a certain day now paſt, to be rendered to the ſaid J. K. for his, &c.; and our chancellor of our ſaid county palatine at that day returned to us that he, by virtue of our ſaid writ to him directed, had by another writ under the ſeal of our ſaid county palatine, duly made out and directed to the ſheriff of the ſame county, commanded the ſame ſheriff, as by our writ he was commanded, who returned to our ſaid chancellor that the ſaid J. P. had not any goods or chattels in his bailiwick whereof he could cauſe to be made the debt and damages aforeſaid, or any part thereof; whereupon on the behalf of the ſaid J. K. it is ſufficiently atteſted in our court before us that the ſaid J. P. hath ſufficient, &c. in your county whereof the debt and damages aforeſaid may be made and levied; therefore we command you, that of, &c. of the ſaid J. P. in your bailiwick you cauſe the debt and damages aforeſaid to be made and levied; and that you, &c. before, &c. on , to render, &c.; and have, &c. Witneſs, &c.

Teſt. fi. fa. out of Lancaſter into Yorkſhire, in B. R.

GEORGE, &c. to our chamberlain, &c.: Whereas we lately commanded our chancellor of, &c. that by our writ, &c. he ſhould command the ſame ſheriff that of the goods, &c. of L. K. &c. and N. M. of, &c. the bail, of D. J. in his bailiwick he ſhould cauſe to be levied pounds, which R. F. and P. H. have lately in our court before, &c. recovered againſt the ſaid D. J. for their debt and damages which they had ſuſtained, as well by reaſon of the not, &c. made by the ſaid D. J. unto the ſaid R. F. and P. H. as for their coſts, &c. whereof the ſaid D. J. hath been convicted, as appears, &c. and whereof in our ſame court before, &c. it has been conſidered that the ſaid R. F. and P. H. ſhould have their execution againſt the ſaid L. K. and N. M. for the damages, coſts, and charges as aforeſaid, according to the force, form, and effect of a certain recognizance by them the ſaid L. K. and N. M. in our ſaid court before, &c. for the ſaid D. J. at the ſuit of the ſaid R. F. and P. H. in the ſuit aforeſaid acknowledged, by the default of the L. K. and N. M. as it likewiſe appears, &c.; and that the ſaid chancellor ſhould have that money before, &c. at a certain day, &c. to render to the ſaid R. F. and P. H. for their damages, &c.; and our

Teſt. ſi fa. againſt bail from Lancaſter to Cheſter, in B. R. in *aſſumpſit.*

our ſaid chancellor of our ſaid county palatine of Lancaſter at that day returned to us that he by another writ under the ſeal of the county palatine duly, &c. and directed to the ſheriff of the ſaid county, had commanded the ſaid ſheriff as within he was commanded; which ſaid ſheriff thereupon returned that the aforeſaid L. K. and N. M. had not any goods, &c. in his bailiwick whereof he could cauſe to be made the damages, &c. or any part thereof; whereupon on the behalf of the ſaid R. F. and P. H. it is ſufficiently teſtified in our ſaid court before us, that the ſaid L. K. and N. M. have ſufficient goods and chattels in our ſaid county palatine of Cheſter whereof the damages, &c. may be made and levied; wherefore we command you that by our writ, &c. you command the ſaid ſheriff that of the, &c. of L. K. and N. M. in his bailiwick he cauſe the damages to be made and levied, ſo that you have that money before us, &c. on next, to render to the ſaid R. F. and P. H. for the, &c.; and have, &c.; Witneſs, &c.

Teſt. fi. fa. in caſe on promiſes, againſt a member of parliament, at the ſuit of the aſſignees of a bankrupt, on the affirmance of judgment in error out of C. B. to B. R.

GEORGE the Third, &c. to, &c.: We command you that of, &c. of ſir T. K. bart. the ſaid ſir T. K. having privilege of parliament you cauſe to be made pounds, which J. B. and J. L. aſſignees, &c. of A. D. a bankrupt, lately in our court before Alexander lord Loughborough and his companions then juſtices of our court of C. B. recovered for their, &c. which they, as aſſignees as aforeſaid, had ſuſtained, as well by reaſon of the not, &c. then lately made by the ſaid ſir T. K. to the ſaid A. D. before he became a bankrupt, as for the coſts, &c. of the ſaid J. B. and J. L. aſſignees as aforeſaid, about their ſuit in that behalf expended, whereof the ſaid T. K. was convicted as, &c. as alſo pounds, which to the ſaid J. B. and J. L. in our court before us, according, &c. were adjudged for their damages, coſts, &c. which they had ſuſtained and expended by reaſon of the delay of execution of the judgment aforeſaid by means of proſecuting our writ of error by him the ſaid ſir T. K. of and upon the judgment aforeſaid proſecuted, whereon the ſame judgment was in our ſaid court before us affirmed, and whereof the ſaid ſir T. K. is convicted, as by the record and proceedings now remaining in our court before us more fully appears; and that, &c. that money before us, on wherefoever, &c. to render to the ſaid J. B. and J. L. for their damages, &c. whereof the ſaid ſir T. K. is convicted, and whereof the ſaid ſheriff of Middleſex hath certified to our, &c. at a certain day, &c. that the ſaid ſir T. K. had no goods or chattels in his bailiwick whereof the damages aforeſaid, or any part thereof, could be made or levied; whereas it is ſufficiently teſtified in our ſame court that the ſaid ſir T. K. hath ſufficient goods and chattels in your ſaid county whereof the damages, coſts, &c. may be made and levied; and have, &c. Witneſs, &c.

GEORGE,

Test. fi. fa. a ſuit of executors, out of Yorkſhire into Lancaſter, on a non-ſuit.

GEORGE, &c. to our chancellor, &c.: Whereas we lately commanded our ſheriff of Y. that of the goods and chattels of J. S. in his bailiwick he ſhould cauſe to be made pounds, which in our court before us had been awarded to A. B. and J. B. executors, &c. of E. B. deceaſed, according to the form, &c. for their coſts and charges which they had ſuſtained by reaſon of the ſaid J. S. not proſecuting his writ with effect in a certain plea of treſpaſs on the caſe ſued out by him againſt the ſaid A. B. and J. B. as executors as aforeſaid; and that the ſaid ſheriff ſhould have that money before, &c. at a certain, &c. to render to the ſaid A. B. and J. B. for their coſts and charges, whereof the ſaid J. S. had been convicted; and our ſaid ſheriff of Y. at that day returned to us, that the ſaid J. S. had not any goods and chattels in his bailiwick, whereof he could cauſe to be made the ſaid coſts and charges, or any part thereof; whereupon on the behalf of the ſaid A. B. and J. B. it is ſufficiently teſtified in our ſaid court before us that the ſaid J. S. hath ſufficient goods and chattels in your county whereof the coſts, &c. may be made and levied; therefore we command you that by our writ, &c. you command the ſame ſheriff, that of the goods and chattels of the ſaid J. S. in his bailiwick he cauſe the ſaid coſts and charges to be made and levied, ſo that you may have that money before, &c. on , to render to the ſaid A. B. and J. B. for their, &c.; and have, &c. Witneſs, &c.

Fi. fa. in caſe, on promiſes, upon an affirmance of judgment in error in the court of exchequer againſt executors, at the ſuit of an adminiſtratrix.

GEORGE, &c.: We command you, that of, &c. which were of L. L. deceaſed, at the time of his death in the hands of E. P. and L. P. executors, &c. of the ſaid L. L. to be adminiſtered in your bailiwick you cauſe to be made pounds, which F. S. and M. his wife, adminiſtratrix, &c. which were of T. W. her former huſband, deceaſed, who died inteſtate, lately in our court before, &c. recovered againſt L. L. in his lifetime, for their damages which they ſuſtained, as well by reaſon of the, &c. lately made by the ſaid L. L. in his lifetime unto the ſaid F. S. and M. as for their, &c. whereof the ſaid L. L. was convicted, as appears, &c.; and whereupon in our ſaid court before us, by virtue of our writ of *ſci. fa.* in that behalf it was conſidered, that the ſaid F. S. and M. his wife might have their execution of the damages aforeſaid, againſt the ſaid E. P. and L. P. executors of, &c. of the ſaid L. L. deceaſed, as aforeſaid, of the goods and chattels which were of the ſaid L. L. deceaſed, at the time of his death, in the hands of the ſaid E. P. and L. P. to be adminiſtered, as alſo appears, &c.; and alſo that you cauſe to be made of the, &c. which were of L. L. deceaſed, at the time of his death in the hands of the ſaid E. P. and L. P. to be adminiſtered, if they have ſo much in their hands to be adminiſtered; but if not, then that you cauſe to be made of the proper goods and chattels of the ſaid E. P. and L. P. which to the ſame F. S. and M. in our exchequer chamber before our juſtices of the bench and the barons of our exchequer of the degree of the coif there, according to the form, &c. were adjudged for their damages, &c. which they had ſuſtained by reaſon of the delay of execution of the judgment

ment aforeſaid, and of the adjudication of the execution of the ſaid judgment by means of proſecuting our writ of error by them the ſaid E. P. and L. P. of and upon the judgment aforeſaid, and the adjudication of the execution of the judgment aforeſaid proſecuted, whereof the ſaid E. P. and L. P. are convicted, upon which ſaid writ of error the ſaid judgment and adjudication of the execution of the ſaid judgment were in the ſame court in all things affirmed, as by the inſpection of, &c. thereof remitted from the ſaid court of exchequer chamber into our ſame court before us now remaining, in all things affirmed, appears likewiſe to us on, &c.; and have you that money before, &c. on , to render to the aforeſaid F. S. and M. for their damages, &c.; and have you, &c.

Fi. fa. in caſe, on promiſes, in to Lancaſter. where part levied and *nulla bona* returned as to the reſt, in B. R.

GEORGE, &c. to our chancellor, &c.: Whereas we lately commanded you, that by our writ, &c. you ſhould command the ſame ſheriff that he ſhould cauſe to be made out of the goods and chattels of J. S. in his bailiwick pounds, which J. B. had lately in our court before, &c. recovered againſt the ſaid J. S. for his damages which he had ſuſtained, as well by reaſon of the not, &c. lately made by the ſaid J. S. to the ſaid J. B. as for his coſts, &c. whereof the ſaid J. S. had been convicted as, &c.; and that you, &c. that writ; at which day you returned to us that you had by virtue of that writ to you directed and delivered by another writ under the ſeal of the ſaid county palatine of Lancaſter, and directed to the ſheriff of the ſame county, commanding the ſaid ſheriff, as by the ſaid writ you was commanded, which ſaid ſheriff, to wit, G. H. eſquire, in anſwer to the ſaid writ ſaid, that by virtue of the ſaid writ to him directed and delivered he had cauſed to be made of the goods and chattels of J. S. the ſum of pounds, which ſaid money he had ready before us at that day and place in the ſaid writ contained, to render to the ſaid J. B. in part of the damages aforeſaid; and the ſaid ſheriff did further certify, that the ſaid J. S. had no other goods or chattels in his bailiwick whereof he could cauſe to be made the reſidue of the ſaid damages as he was within commanded; therefore we command you that by our writ, &c. you command the ſaid ſheriff, that he cauſe to be made of the goods and chattels of the ſaid J. S. in his bailiwick pounds, being the reſidue of the damages aforeſaid; and have you that money before us, &c. on , to render to the ſaid J. B. for his damages aforeſaid; and have, &c.

Fi. fa. into the county palatine of Lancaſter, upon the ſtat. of 8. Geo. 2. c. 16. and 22. G. 2. c. 46. againſt the inhabitants of an hundred.

GEORGE, &c. to, &c.: We command you, that by our writ, &c. you command the ſame ſheriff that of the goods and chattels of the men inhabiting in the hundred of in our ſaid county palatine, being in the bailiwick of the ſaid ſheriff, he cauſe to be made pounds, which to T. R. lately in our court before us, &c. were adjudged for his damages which he had ſuſtained, as well by reaſon of the unlawful, riotous, and tumultuous aſſembly of divers perſons to the number of twelve and more, at in the ſaid hundred,

dred, of pounds, and in the ſaid county palatine of Lancaſter, and then and there unlawfully and felonioufly, and with force demoliſhing in part a dwelling-houſe of the ſaid T. R. ſituate in aforeſaid, in the hundred and county aforeſaid, together with the furniture therein, as for his coſts, &c. by him about his ſuit in this behalf expended, whereof R. E. and P. R. two of the men inhabiting the hundred and county aforeſaid, have been convicted as, &c.; and have that money before, &c. on , to render to the ſaid T. R. for his, &c. according to the, &c.; and have, &c.

Indorſed.—The within damages are to be levied according to the directions of the ſtatute of 8. Geo. 2. c. 16. and 22. Geo. 2. c. 46.

Teſt. fi. fa. in debt, out of Middleſex into Cheſter, in C. B.

GEORGE the Third, &c. to our chamberlain, &c.: Whereas we lately commanded our ſheriff of Middleſex, that of the goods and chattels of T. J. late of, &c. in his bailiwick he ſhould cauſe to be made pounds, which M. M. recovered againſt him for a debt, and alſo pounds, which to the ſaid M. M. in our court before our, &c. were adjudged for his damages which he had ſuſtained, as well by reaſon of the detaining that debt as for his, &c. whereof the ſaid T. J. is convicted as aforeſaid; and that the ſaid ſheriff ſhould have that money before our, &c. at a certain day, &c. to render to the ſaid M. M. for his, &c.; and whereof our ſaid ſheriff of Middleſex hath certified to our, &c. at a certain day, &c. that the ſaid T. J. had no goods or chattels in his bailiwick whereof the debt, &c. or any part thereof, could be made and levied; whereas it is teſtified in our ſame court here before our juſtices that the ſaid T. J. hath ſufficient goods and chattels in our ſaid county palatine whereof the debt, &c. may be made and levied; therefore we command you, that by your writ, &c. you command the ſame ſheriff that he cauſe to be made of the goods and chattels of the ſaid M. M. in his bailiwick the debt, &c. ſo that you may have that money before our, &c. on , to render to the ſaid M. M. for his, &c.; and have, &c. Witneſs, &c.

Fi. fa. on a non-ſuit at the trial, in K. B.

GEORGE, &c. to, &c.: We command you, that of the, &c. J. E. being in your bailiwick you cauſe to be made pounds, which in our court before, &c. by the direction of the ſame court, according to, &c. lately were adjudged to R. L. and R. W. for their, &c. by them ſuſtained in and about their defence in a certain action of treſpaſs on the caſe lately unjuſtly proſecuted in our ſame court before us againſt them by the ſaid J. E. as appears by a certain jury of the country thereupon taken, whereof the ſaid J. E. is convicted; and have you that money before, &c. on next, to render to the ſaid R. L. and R. W. for their, &c.; and have you, &c.

GEORGE,

Fi. fa. upon a judgment of non-ſuit.

GEORGE, &c. to our chancellor, &c.: We command you, that by our writ, &c. you command the ſame ſheriff that of the &c. of T. S. in his bailiwick he cauſe to be made pounds, which to B. J. in our court before, &c. according, &c. lately made, &c. were adjudged for his coſts and charges about his defence in a certain action of treſpaſs againſt him the ſaid B. J. at the ſuit of the of the ſaid T. S. in our ſame court before, &c. ſuſtained, whereof he is convicted as, &c.; and have that money before, &c. on to be paid to the ſaid B. J. for his coſts and charges aforeſaid; and have, &c.

Fi. fa. on a judgment of *non proſ.* in K. B.

GEORGE, &c. to our chancellor, &c.: We command you, that by our writ, &c. you command the ſame ſheriff that of, &c. of J. B. in his bailiwick he cauſe to be made pounds, which to T. T. in our court before, &c. according, &c. lately were adjudged for his, &c. which he had ſuſtained, for that the ſaid J. B. had not proſecuted his writ by him the ſaid T. T. obtained in our court againſt the ſaid J. B. in a certain plea of treſpaſs, whereof the ſaid J. B. is convicted as, &c.; and have that money before, &c. on, &c. to be paid to the ſaid T. T. for his, &c.; and have &c.

Teſt. fi. fa out of Middleſex into Lancaſter.

GEORGE the Third, &c. to our chancellor, &c.: Whereas we lately commanded our ſheriff of Middleſex, that he ſhould cauſe to be made of the goods and chattels of D. R. and S. R. in his bailiwick, as well a certain debt of , which J. C. and S. P. had lately in our court before us at Weſtminſter recovered againſt the ſaid D. R. and S. R. as alſo , which to the ſaid J. C. and S. P. had been adjudged for their damages which they had ſuſtained, as well by reaſon of the detaining that debt as for their coſts, &c. laid out by them about their ſuit in that behalf, whereof the ſaid D. R. and S. R. were convicted as appears, &c.; and that the ſaid ſheriff ſhould have that money before us at Weſtminſter at a certain day now paſt, to be rendered to the ſaid J. C. and S. P. for their debt and damages aforeſaid; and our ſaid ſheriff of Middleſex at that day returned to us that the ſaid D. R. and S. R. had not any goods or chattels in his bailiwick, whereof he could cauſe the debt and damages aforeſaid, or any part thereof, to be made and levied: And whereas it is thereupon ſufficiently teſtified in our court before us, that the ſaid D. R. and S. R. have ſufficient goods and chattels in our ſaid county palatine, whereof the debt and damages aforeſaid might be made and levied: And whereas we therefore lately by our writ of *teſtatum fieri facias* commanded our chancellor of our ſaid county palatine that by our writ under the ſeal of our ſaid county palatine duly to be made out and to be directed to the ſheriff of the ſame county, he ſhould command the ſame ſheriff that of the goods and chattels of the ſaid D. R. and S. R. in his bailiwick he ſhould cauſe the debt and damages

ſuſtained

aforesaid to be made and levied, so that the said sheriff should have that money before us at Westminster, on , to render to the said J. C. and S. R. for their debt, &c.: And our said chancellor of our said county palatine at that day returned to us, that by virtue of that writ to him directed and delivered, by another writ under the seal of the said county palatine, and directed to the sheriff of the said county, he commanded the said sheriff, as he was by the said writ of *fieri facias* commanded, which said sheriff, to wit, , in answer to our said writ of *testatum fieri facias* said, that by virtue of the said writ to him directed and delivered, he had caused to be made of the goods and chattels of the said D. R. and S. R. in part of the debt, &c. which money he had ready before us at the day and place aforesaid, to render to the said J. C. and S. P. as he was by the said writ commanded, and that the said D. R. and S. R. had not, nor had either of them any goods, &c. in his bailiwick whereby or wherewith he could make the residue of the debt, &c. or any part thereof; and now on behalf of the said J. C. &c. it is further sufficiently testified in our court before us that the said D. R. and S. R. have sufficient goods and chattels in our said county palatine whereof the residue of the said debt, &c. may be made and levied; therefore we command you, that by our writ under the seal of the said county palatine duly to be made out and to be directed, &c. you command the same sheriff that of, &c. of the said D. R. and S. R. in his bailiwick he cause , the residue of the debt, &c. to be made and levied, so that the said sheriff have that money before us, &c. on , to render to the said J. C. and S. P. for the residue of the debt and damages aforesaid; and have, &c.

Fi. fa. de bonis ecclesiasticis into the county palatine of Lancaster.

GEORGE, &c. to our chancellor, &c.: We command you, that by our writ under the seal of our said county palatine to be duly made out, and to be directed to the sheriff of the said county, you command the said sheriff that of the goods and chattels of the reverend W. P. clerk, in his bailiwick, he cause to be made , which A. B. lately in our court before us, &c. recovered against him for a debt, and also for his damages which he had sustained, as well by reason of the detaining that debt as for his costs and charges laid out by him about his suit in that behalf, whereof the said W. P. is convicted, as appears, &c.; and have you that money before us at Westminster, on , to render to the said A. B. for his debt and damages aforesaid; and have you, &c. Witness, &c.

The return of the right hon. T. earl of , chancellor of our county palatine of Lancaster to this writ.

By virtue of this writ to me directed and delivered by another writ under the seal of the county palatine of Lancaster within mentioned, and directed to the sheriff of the said county, I command the said sheriff as within I am commanded, which said sheriff, to wit, , in answer to the said writ saith, that the execution of the said writ to him directed appears in a certain schedule hereunto annexed. By the same chancellor.

of his plough), and in like manner a moiety of all his lands and tenements in your bailiwick, to hold the same goods and chattels as her own proper goods and chattels, and also to hold the said moiety as her freehold to her and her assigns, according to the form of the aforesaid statute until the said damages shall be thereof levied; therefore we command that all the goods and chattels of the said S. S. (except the oxen and beasts of his plough), and in the like manner a moiety of all his lands and tenements in your bailiwick whereof the said S. S. on next after , on the day of , in the year, &c. on which day judgment thereof was given, or at any time after was seised to her the said A. B. forthwith you cause to be delivered at a reasonable price and value, to hold the said goods and chattels to her as her own proper goods and chattels, and also to hold the said moiety of her freehold to her and her assigns, according to the form of the statute, until the said damages shall be thereof levied; and as soon as you shall have executed this our command you shall make it appear to our justices at Westminster, on , under your seal and the seals of those by whose oaths you shall make that value and appraisement; and have you, &c. Witness, &c.

Fi. fa. in debt, to recover a sum of money for arrearages of rent, and for her costs in and about her defence to a certain plea, &c.

GEORGE the Third, &c. to the Sheriff of Suffolk, greeting: We command you, that you cause to be made of the goods and chattels in your bailiwick of John Hunton six pounds eleven shillings, being the amount of certain arrearages of rent, adjudged to Theodosia Peek in our court before our justices at Westminster, according to the form of the statute in such case made and provided, and sixteen pounds which in our said court before our justices aforesaid were adjudged to the said Theodosia for the costs and charges by her laid out in and about her defence in a certain plea of taking and detaining the goods and chattels of the said John lately depending in the same court, whereof the said John Hunton is convicted as appears to us of record; and have you that money before our justices at Westminster on , to render to the said Theodosia for the arrearages, costs, and charges aforesaid; and have there then this writ. Witness Alexander lord Loughborough at Westminster the day of , in the thirtieth year of our reign.

Mittimus to the city of Chester.

GEORGE, &c. to our chamberlain of our county palatine of Chester, or his deputy there, greeting: The tenor of a certain record which is depending in our court before us at Westminster between A. B. plaintiff, and C. D. defendant, of a plea, &c. we send you inclosed in these presents, commanding you, that by our writ under the seal of our said county palatine duly to be made out you cause the said record to be sent to the mayor of the city of

of Chester and county of the same city, commanding the said mayor, that for trying the issue in the said record specified the said mayor do command the sheriffs of the said city of Chester and county of the same city, that they cause to come before the said mayor at a certain day and place by the said mayor to be appointed after the record shall be delivered to him twelve free and lawful men of the body of the city aforesaid and county of the same city, each of whom to have ten pounds a-year at least in lands, tenements, or rents, by whom the truth of the matter in question may be the better known and enquired into, and who are in nowise of kin either to the said A. B. or to the said C. D. to recognize and make a certain jury of the county between the said parties in the plea aforesaid, because as well the said A. B. as the said C. D. between whom the variance is, have put themselves upon that jury, and lastly, that the said mayor make such further process against the said jurors to be impanelled between the said parties as according to the law and custom of the said city and county of the same city in this behalf are used and commonly made until the issue aforesaid between the parties aforesaid shall be fully tried, and when the verification of the issue aforesaid shall have then been made and tried, then the said mayor shall send to you the record of the plaint aforesaid, with every thing that shall have been done thereupon before him, so that you have the said record before us at Westminster and this writ at a certain day which the said mayor shall appoint to the said parties to be in our said court here to hear judgment thereupon. Witness, &c.

Mittimus to be annexed to the record in the county palatine of Lancaster

GEORGE, &c. to our justices of our county palatine of Lancaster, greeting: The tenor of a certain record before us at Westminster between A. B. plaintiff, and C. D. defendant, in a plea of trespass on the case, we send you inclosed herein, commanding that you, having inspected the same by our writ of our said county palatine, do command the sheriff of the same county, that he cause twelve free and lawful men of the body of the same county palatine to come before you at the next sessions then to be holden after this writ shall be delivered to you, each of whom to have ten pounds per year at least of lands, tenements, or rents, by whom the truth of the matter may be the better known and enquired into, and who are in nowise related to the said C. D. or the said A. B. to recognize and make a certain jury of the county between the said parties of the plea aforesaid, because as well the said C. D. as the said A. B. between whom the controversy is, have put themselves, &c. and also that you make such further proceedings against the said jurors so to be impanelled between the said parties as are in this behalf used and commonly made, according to the law and custom of the said county until the issue aforesaid between the said parties shall be fully tried, and when the verification and issue aforesaid be then made and tried before us, then do you send the record of the plaint aforesaid, together with

every thing that ſhall then and there be done before you therein and alſo this writ to us at Weſtminſter at a certain day which you ſhall appoint to the ſaid parties to be there to hear judgment thereupon. Witneſs, &c.

[To be ſigned and ſealed.]

Entry, where one defendant pleads and the other defendant ſuffers judgment by default.

AND now at this day, that is to ſay, next after in this ſame term, until which day C. D. and E. F. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as they ſhould be adviſed, come before our ſaid lord the king at Weſtminſter, as well the ſaid A. B. by his attorney, as the ſaid C. D. by his attorney; and the ſaid (*a*) *C. D.* defends the *force* and injury laid to his charge by the ſaid A. B. in his declaration aforeſaid, which he will be ready to defend when, where, and in ſuch manner and form as the ſaid A. B. above thereof complains againſt him; and of this he puts himſelf upon the country; and the ſaid A. B. doth the like: And the ſaid E. F. although on the ſame day ſolemnly called comes not, nor ſays any thing in bar or denial of the aforeſaid action of the ſaid A. B. whereby the ſaid A. B. remains therein againſt the ſaid E. F. without defence; *therefore* it is conſidered that the ſaid A. B. ought to recover againſt the ſaid E. F. his damages by reaſon of the *treſpaſs* aforeſaid, becauſe the ſaid court of our ſaid lord the king now here doth not know what damages the ſaid A. B. hath in this behalf ſuſtained, and alſo becauſe it is neceſſary and convenient that only one aſſeſſment of damages ſhall be made for the whole treſpaſs ſpecified in the declaration, and that thoſe damages ought to be ſet by the ſame jury of the county; and if it ſhall happen that a verdict ſhould be given againſt the ſaid (*b*) *C. D.* for the ſaid A. B. upon the iſſue above joined between them; therefore as well to try the ſaid iſſue between the ſaid A. B. and the ſaid C. D. above joined to be tried by the country as to enquire what damages the ſaid A. B. hath ſuſtained by reaſon of the *treſpaſs* aforeſaid above committed by the ſaid E. F. let a jury come before our ſaid lord the king at Weſtminſter, on , who are in no wiſe related or of kin either to the ſaid A. B. or to the ſaid C. D. and E. F. to recognize on their oath the full truth of, and concerning the premiſes, becauſe as well the ſaid C. D. as the ſaid A. B. between whom the aforeſaid matter in variance is, have put themſelves upon that jury. The ſame day is given to the ſaid A. B. and C. D. there, &c.

As the caſe is.

(*a*) The defendant who pleads. This is in treſpaſs if in caſe (See poſt.)

(*b*) The perſon firſt taking iſſue.

[If in *aſſumpſit*, and *non-aſſumpſit* pleaded, then as follows:]

[As above till.] And the ſaid C. D. defends the wrong and injury laid to his charge by the ſaid A. B. in his declaration aforeſaid, which he will be ready to defend when, where, and in ſuch manner as this court ſhall award, and ſays, that he the ſaid C. D. and

the

the ſaid E. F. did not promiſe and undertake in manner and form as the ſaid A. B. hath above complained againſt them; and of this he the ſaid C. D. puts himſelf upon the country, &c. [only inſtead of the word "treſpaſs," ſay, "not performing the ſeveral promiſes and undertakings."]

Entry of a bill of Middleſex on the roll to ſave the ſtatute of limitations.

MIDDLESEX, to wit. The ſheriff is commanded to take, &c. [recite the bill.]

LEE and ANTHONY.

At which day, before our lord the king at Weſtminſter came the ſaid A. B. and C. D. the plaintiffs, in their proper perſons, and offer themſelves againſt the ſaid E. F. the defendant, in the plea and bill aforeſaid; and the ſheriff of Middleſex, to wit, William Peers, eſquire, and William Naſh, eſquire, returned that the aforeſaid E. F. is not found in his bailiwick.

Entry of ſatisfaction upon a judgment in debt, in C. B.

MIDDLESEX, to wit. J. T. late of, &c. in the county of, &c. eſquire, was ſummoned to anſwer B. H. in a plea, that he render to him five hundred pounds which he owes to him, and unjuſtly detains, &c.

Afterwards, to wit, the ſixteenth day of July, in, &c. came the ſaid B. H. by G. N. his attorney, appointed by ſpecial warrant in this behalf before , one of the juſtices of our ſovereign lord the king of the bench, at his chambers, in Serjeant's Inn, Chancery Lane, London, and acknowledged that he was ſatisfied the ſaid debt and damages; therfore the ſaid J. is acquitted of the ſame debt and damages, &c.

Acknowledged the day and year aforeſaid, before J. H.

Entry of *capias ad ſatisfaciendum*, and continuances by *vicecomes non miſit breve*.

AFTERWARDS, that is to ſay, on the third day of April in this ſame term, the ſaid J. A. comes here into court by his attorney aforeſaid, and prays the writ of our lord the king of *capias ad ſatisfaciendum* to be directed to the ſheriff of Middleſex, commanding him that he take the ſaid J. P. if he be found in his bailiwick, and him ſafely keep, ſo that he may have his body before our ſaid lord the king at Weſtminſter on Wedneſday next after one month from the day of Eaſter to ſatisfy the ſaid J. A. the *damages* aforeſaid, and it is granted to him; the ſame day is given to the ſaid J. A. at the ſame place; at which day, before our ſaid lord the king at Weſtminſter, comes the ſaid J. A. by his attorney aforeſaid, and the ſheriff, to wit, , ſheriff of Middleſex aforeſaid, thereupon returns to our ſaid lord the king at Weſtminſter aforeſaid that the ſaid J. P. is not found in his bailiwick; [whereupon the ſaid J. A. prays another writ of our ſaid lord the

Query, as to *ca. ſa.* if for damages only.

king of *capias ad ſatisfaciendum* to be directed to the ſaid ſheriff of Middleſex, commanding him in form aforeſaid, and it is granted to him, returnable before our ſaid lord the king at Weſtminſter on Friday next after the morrow of the Holy Trinity; the ſame day is given to the ſaid J. A. at the ſame place; at which day, before our ſaid lord the king at Weſtminſter, comes the ſaid J. A. by his attorney aforeſaid, and the ſheriff hath not ſent the ſaid laſt-mentioned writ, nor hath he done any thing thereupon] whereupon, &c. &c. [here add another continuance the ſame as within the crotchets]; whereupon on the behalf of the ſaid J. A. it is ſufficiently atteſted in the ſaid court of our ſaid lord the king before the king himſelf that the ſaid J. P. lurks and wanders up and down in the county of Glouceſter; and the ſaid J. A. prays the writ of our ſaid lord the king of *teſtatum capias ad ſatisfaciendum* to be directed to the ſheriff of Glouceſterſhire, commanding him in form aforeſaid, and it is granted to him, returnable before our ſaid lord the king at Weſtminſter on next after ; the ſame day is given to the ſaid J. A. at the ſame place.

Return of *teſtatum*.

As the firſt *teſt. ca. ſa.* into Glouceſterſhire was of courſe returnable the ſame day as the *ca. ſa.* into Middleſex, it is better not to take notice of the former writ.

Entry of *fieri facias* on the roll.

AFTERWARDS, that is to ſay, on the ſeventeenth day of May, in this ſame term, the ſaid J. A. and R. S. come here into court by their attorney aforeſaid, and pray the writ of our ſaid lord the king of *fieri facias* to be directed to the ſheriffs of London, commanding them that of the goods and chattels of the ſaid Peter in their bailiwick they cauſe to be made the damages aforeſaid, and it is granted to them, returnable before our ſaid lord the king on fifteen days of the Holy Trinity, whereſoever our ſaid lord the king ſhall then be in England; the ſame day is given to the ſaid J. and R. at the ſame place; at which day, before our ſaid lord the king at Weſtminſter, come the ſaid J. and R. by their attorney aforeſaid, and the ſheriffs of London thereupon return to our ſaid lord the king at Weſtminſter aforeſaid that the ſaid Peter hath not any goods or chattels in their bailiwick whereof they can cauſe to be levied the damages aforeſaid, or any part thereof, whereupon on the behalf of the ſaid J. and R. it is ſufficiently atteſted in the ſaid court of our ſaid lord the king before the king himſelf that the ſaid Peter hath goods and chattels ſufficient in the county of Middleſex whereof the ſheriff of that county can cauſe to be levied the damages aforeſaid; and thereupon the ſaid J. and R. pray the writ of our ſaid lord the king of *teſtatum fieri facias* to be directed to the ſheriff of the ſaid county of Middleſex, commanding him, that of the goods and chattels of the ſaid Peter in his county he cauſe to be made the damages aforeſaid, and it is granted to them, returnable before our ſaid lord the king in three weeks of the Holy Trinity, whereſoever our ſaid lord the king ſhall then be in England; the ſame day is given

Teſt. fi. fa. into Middleſex.

given to the ſaid J. and R. at the ſame place; at which day, before our ſaid lord the king at Weſtminſter, come the ſaid J. and R. by their attorney aforeſaid, and the ſheriff of Middleſex thereupon returns to our ſaid lord the king aforeſaid that he hath cauſed to be made of the goods and chattels of the ſaid Peter in his bailiwick the ſum of ninety-ſix pounds thirteen ſhillings and ſixpence, which ſum of money he has paid to the ſaid J. and R. in part ſatisfaction of the damages aforeſaid, and that the ſaid Peter hath not any other or more goods and chattels in his bailiwick whereof he can cauſe to be made the reſidue of the damages aforeſaid, or any part thereof. *Drawn by* Mr. TIDD.

Enter on the roll the writ of error, return, tranſcript, declaration, interlocutory judgment, return of inquiſition, and final judgment, to the end of tranſcript, as follows, viz.

Entry on the roll of the writ of error as yet of Eaſter Term.
Witneſs ſir William Lee, knight.

ENGLAND, to wit. Our lord the king hath ſent to ſir J. W. knight, his chief juſtice of the bench, his writ cloſed in theſe words, to wit, George, &c. to his truſty and well beloved ſir J. W. knight, his chief juſtice of the bench, greeting: Foraſmuch as in the record and proceſs, and alſo giving of judgment in a plaint which was in our court before you and your aſſociates, our juſtices of the ſaid bench, by our writ, between R. G. and M. P. of a certain treſpaſs upon the caſe done to the ſaid Richard by the ſaid M. as it is ſaid, manifeſt error hath intervened to the great damage of the ſaid M. as by his complaint we are informed; we willing that the ſaid error, if any, be duly amended, and full and ſpeedy juſtice done to the ſaid parties in this behalf, do command you, that if judgment be given thereupon, then that you ſend to us diſtinctly and plainly under your ſeal the record and proceſs of the ſaid plaint, with all things touching the ſame, and this writ, ſo that we may have them in eight days, &c. wheresoever we ſhall then be in England, that inſpecting the record and proceſs aforeſaid we may cauſe further to be done thereupon for amending the ſaid error, as of right, and according to the law and cuſtom of England ſhall be meet to be done. Witneſs ourſelf at Weſtminſter, the

Error from C. B. to B. R.

The anſwer of ſir J. W. knight, chief juſtice within named.— The record and proceſs of the plaint within named, with all things touching the ſame, I ſend before the lord the king wheresoever, &c. at the day within contained in a certain record to this writ annexed, as I am within commanded J. WILLES.

Chief juſtice's anſwer.

[Pleas enrolled at Weſtminſter before ſir J. W. knight, and his brethren, juſtices of his majeſty's court of C. B. of the term of the Holy Trinity, in the eleventh year of the reign of our ſovereign lord king George the Second, by the grace, &c.]

Tranſcript.

(a) See Error.

OXFORD-

Declaration.

OXFORDSHIRE, to wit. M. P. late of , in the ſaid county, yeoman, was attached to anſwer to R. G. in a plea of treſpaſs on the caſe, &c.; and whereupon [here recite the whole declaration.]

Interlocutory judgment for want of plea.

And the ſaid M. in his own proper perſon comes and defends the wrong and injury when, &c. and ſays nothing in bar or preclusion of the aforeſaid action of the ſaid Richard whereby the ſaid Richard remains againſt the ſaid M. thereof undefended; wherefore the ſaid Richard ought to recover againſt the ſaid A. his damages by reaſon of the non-performanee of the ſaid ſeveral premiſes and undertakings; but becauſe it is not known what damages the ſaid R. hath ſuſtained by reaſon of the non-performance of the ſaid promiſes and undertakings, the ſheriff is commanded that he diligently enquire, by the oath of honeſt and lawful men of his county, what damages the ſaid R. hath ſuſtained as well by reaſon of the non-performance of the ſaid promiſes and undertakings as for his coſts and charges expended about his ſuit in this behalf, and that he make a return to the juſtices here of the inquiſition which he ſhall take thereupon from the day of, &c. under his own ſeal and the ſeals of, &c. he ſhall take that inquiſition; at which day the ſaid Richard cometh here by his attorney aforeſaid, and the ſheriff, namely, J. P. knight, now returneth here a certain inquiſition taken before him at , in the county aforeſaid, on Monday, &c. in the year of , by the oaths of twelve, &c. by which it is found that the ſaid Richard hath ſuſtained damages by reaſon of the non-performance of ſeveral promiſes and undertakings, beſides his coſts and charges by him about his ſuit in this behalf laid out, to ſeven pounds nine ſhillings, and for the ſaid coſts and charges to ſixpence; therefore it is conſidered that the ſaid Richard do recover againſt the ſaid M. his damages aforeſaid to ſeven pounds nine ſhillings and ſixpence by the inquiſition aforeſaid in form aforeſaid found, and alſo nine pounds and ſixpence to the ſaid Richard at his requeſt by the court here of increaſe adjudged, which ſaid damages amount in the whole to ſixteen pounds ten ſhillings; and the ſaid M. in mercy, &c.

Writ of enquiry.

Return of inquiſition.

Final judgment ſigned.

Mercy.

General errors aſſigned.

Afterwards, to wit, on , in the ſame term, before our lord the king at Weſtminſter, cometh the ſaid M. P. by J. R. his attorney, and ſaith, that in the record and proceſs aforeſaid, and alſo in giving the judgment aforeſaid, there is manifeſt error in this, for that by the record and proceſs thereof it appears that the judgment aforeſaid in the plea aforeſaid is given for the ſaid Richard againſt the ſaid M. P. when according to the law of this realm the ſaid judgment ought to have been given for the ſaid M. P. againſt the ſaid R. G. therefore in this there is manifeſt error; there is alſo error in this, for that it appears by the record aforeſaid that the ſaid R. G. appeared in the ſaid court of the

Diminution of warrant of attorney.

bench by B. R. his attorney, yet the ſaid B. R. had no warrant of attorney to appear for the ſaid R. G. againſt the ſaid M. P. in the plea aforeſaid of the ſaid court of the bench filed on record; therefore in this there is manifeſt error; and the ſaid M. P. prays his majeſty's writ to be directed to the chief juſtice of his ſaid majeſty's court of the bench more fully to certify the truth thereof to his ſaid majeſty's, &c: and it is granted to him, &c.

Joinder in error.

And the ſaid R. by W. his attorney, comes voluntarily here into court, and having heard the ſaid errors forthwith ſays, that neither in the aforeſaid record and proceedings, nor in the giving the judgment aforeſaid, is there any error; and alſo prays that the court of our ſaid lord the king now here may likewiſe proceed to examine as well the record and proceedings aforeſaid and the judgment thereon given as the aforeſaid matters above aſſigned and alledged for error, and that the ſaid judgment may be affirmed in all things, &c.; but becauſe the ſaid court of our ſaid lord the king before our ſaid lord the king hath not conſidered of a judgment to give of and concerning the premiſes, a day therefore is given to the parties aforeſaid before our ſaid lord the king until five weeks, &c. wheresoever, &c. to hear their judgment of and concerning the premiſes, the ſaid court of our ſaid lord the king having not as yet conſidered what judgment to give thereupon, &c.; at which day come before the lord the king at Weſtminſter the aforeſaid parties by their attornies aforeſaid, and becauſe the court of our ſaid lord the king before the king himſelf hath not conſidered yet of a judgment to give of and concerning the premiſes, a day is therefore given to the parties aforeſaid before our ſaid lord the king until the morrow, &c. wheresoever, &c. to hear their judgment of and concerning the premiſes, &c. the court of our ſaid lord the now king before the king himſelf not having as yet conſidered what judgment to give of and concerning the premiſes, &c.; at which day, before the ſaid lord the king at Weſtminſter, the aforeſaid parties come by their attornies aforeſaid, upon which all and ſingular the premiſes being ſeen, and by the court of our ſaid lord the king now here fully underſtood and diligently examined, and as well the record and proceſs aforeſaid as the judgment thereon given, as alſo the aforeſaid cauſes and matters by the aforeſaid M. above aſſigned for error being inſpected, for that it appears to the ſaid court of our ſaid lord the king now here that neither in the record and proceſs aforeſaid, nor giving of the judgment aforeſaid, is any thing erroneous or defective, and that there is no error in the record aforeſaid; it is conſidered that the judgment aforeſaid be in all things affirmed and do ſtand in full force and effect, the aforeſaid cauſes and matters above aſſigned for error in anywiſe notwithſtanding; and it is further conſidered by the court of our ſaid lord the king now here that the aforeſaid R. R. do recover againſt the ſaid M. to the ſaid R. by the ſaid court of our ſaid lord the king now here adjudged accord-

Continuances, *cur. adv. vult.*

Judgment affirmed, and coſts occaſioned by delay of execution.

according to the form of the ſtatute, &c. for his expences, coſts, and charges which he hath ſuſtained by occaſion of delaying the execution of the ſaid judgment by pretence of proſecuting the aforeſaid writ of error, and that the aforeſaid Richard have execution thereon, &c.

Stamps upon the rule.

Between { JOHN HUMPHREYS and JOHN SIBLEY.

Notice of the allowance of the writ.

I HAVE allowed a writ of error in this cauſe.

R. L. clerk of the errors.

In Error,

Between { J. H. and J. S.

Notice of putting in bail in error.

TAKE notice, bail is this day put in for the plaintiff in the writ of error in the above cauſe before Mr. Juſtice W. the names of which bail are W. G. of , and J. T. of, &c. *who at the ſame time juſtified themſelves to be good bail.*

Yours, &c.

T. O. agent for the plaintiff in error.

Clifford's-Inn, 25th May, 1793.

Rule to tranſcribe.

HUMPHREYS *againſt* SIBLEY. } Unleſs the plaintiff in the writ of error certifies the record within eight days next after notice hereof given to the aforeſaid plaintiff, or his attorney, a nonſuit will be entered,

R. S. clerk of the errors.

C. for plaintiff in error. T. for defendant in error.

For the manner of ſuing out the writ of error, and what the party ſuing it out is to do in order to ſupport his judgment, and ſuch other directions as proceedings in error, ſee Mod. Ent. vol. 2. 374. 375.

Michaelmas Term, Geo. II. 1734.

CHAMPION *againſt* CHAMPION. } ON a judgment in C. B. writ of error returnable in B. R. the laſt return of this term.

Rule to tranſcribe.—In the vacation a rule was ſerved to tranſcribe from the clerk of the errors, for which paid four ſhillings. By this rule the plaintiff in error to certify the record into K. B. in eight days, or elſe a *non proſ.* was to be entered. The rule was error, whereupon money was left with the clerk of the errors to make out the tranſcript. Upon this the judgment roll was docketed with the prothonotary, and then entered and marked by the clerk of the eſſoins, paid him one ſhilling, then delivered it to the clerk of the errors to make the tranſcript.—

Note,

Note, the rule may be left with the prothonotary, he will take one shilling for the clerk of the essoins, who always calls on the prothonotary for what rolls are left with him.

The transcript examined and furnished.—Attend the prothonotary, have it examined and signed, and pay the clerk two shillings and sixpence, which he expects for expediting the transcript, though he cannot claim it; and when examined, leave it with him to be filed with the signer of the writs in the K. B. office.

Hilary Term following.

The transcript filed with the signer of the writs, receive it from him to copy, and pay him fourpence for delivering it; and when copied, return it to him for the defendant to copy.

Then return the original (as below), and file it with the *custos brevium* of the C. B. and execute the warrant of attorney at the warrant of attorney's office. See that they were filed agreeably to judgment.

Pledges to prosecute, { John Doe and Richard Roe.

The within named defendant hath nothing in my bailiwick whereby he can be *attached*. (If in debt, *summoned*.) The answer of J. C. esquire, sheriff. The return to *scire facias*.

Scire facias (*quare executionem non*) ought to be sued out by the sheriff or plaintiff in error, and a rule given on it; but it was agreed to sign errors without it. (See *infra* what to do on the return of this writ.)

Vacation following.

The plaintiff's attorney gives a copy of the common errors, and it ought to be delivered to the defendant's attorney, and not left in the office.

Easter Term following.

Give a rule with the master, and enter it with for plaintiff to return a *certiorari* in four days, which serve on plaintiff's attorney, and not returning any, deliver to him *in nullo est erratum*, and pay him two shillings and fourpence for the entry of it.

As soon as *in nullo est erratum* is delivered, enter the whole proceedings with the award of a *certiorari*, and a *non misit breve* with , though no *certiorari* was sued out, and pay him as in other cases for common entries, and then move the court for a *consilium*, and pay the clerk of the papers one shilling for reading the record in court. This entry and motion may be made only with making a short inscription on the roll.

Consilium.—Draw up the record for counsel, and set down the cause in the paper, for which pay one shilling to the clerk of the papers, and make four books for the judges, and another for the counsel to argue it. The plaintiff makes up two books, and delivers them to the senior judges, and pays two shillings a piece with them.

Michaelmas Term, 9. Geo. III.

G. WIDOW, *against* G. AND OTHERS. } ON a judgment in C. B. in dower under *nihil habet*. Writ of error returnable in B. R. the last return of this term.

In the vacation have a rule to transcribe, &c. (as before) which being done, and examined as before.

Hilary Term following.

Receive the transcript, copied and returned (as above), get the writ of

(*a*) These Notes and Instructions for Proceedings in Error, communicated by one of the most experienced Practitioners in the Profession, are inserted here without alteration.

dower (as the original, to warrant the judgment, that being the proper original in dower) returned with the defendant ſummoned, and file it.

On a *ſcire facias* (*quare executionem non*) teſted the firſt and return able the laſt return of the term, the ſheriff makes out a return to the bailiff, who ſummons the plaintiff in error by delivering to each of them a copy of the writ, and the ſheriff returns a ſummons on the writ.

The day after the return of the writ, give a rule for judgment on it with (as on the *ſcire facias*), and the plaintiff in error, if he does not deliver you any errors, or file a plea in four days afterwards. When the rule is out, enter up the errors adjudged with , and then ſue out execution for the value and damages.

Hilary Vacation.

Having entered up the judgment on the *ſcire facias*, and ſued out the execution on it, namely, after ſigning the judgment, give a rule to aſſign errors on record, in order to proceed to recover the coſts in error, for which purpoſe get the following rule from the maſter:

Hilary Term, 9. Geo. III.

Rule to aſſign errors. G. WIDOW, *againſt* G. AND OTHERS. } Fourteen days next after the end of the term to aſſign errors upon the record obtained let a *non proſ.* be entered.

This rule was not given till nine days after the term, and was entered with the clerk of the rules, and ſerved a copy on the adverſe attorney, who before the rule was out delivered a copy of the common errors in the want of an original. The errors not being delivered till after fourteen days from the end of the term, a rule could not be given to return *certiorari* this vacation.

Eaſter Term, 1736.

Get a rule from the maſter to return the *certiorari* entered and ſerved as before, a bill in chancery being filed, and an injunction obtained, proceed no farther till

Hilary Term, 26.

Having firſt moved the chancellor got an order for leave to proceed to *non proſ.* writ of error, or affirm judgment, notwithſtanding the injunction (which is a motion of courſe), and no *certiorari* being returned, and left with . I then delivered *in nullo eſt erratum* to the adverſe attorney, and paid him two ſhillings and fourpence for the entry of it. This being done, I immediately entered the whole proceedings with with any award of a *certiorari* and a *non miſit breve* (though no *certiorari* was ſued out), and paid him as for common entries, and I made the entry as of Eaſter Term laſt, which was the more proper than this term, in regard only that the rule to return the *certiorari* was of that term, having entered two or three lines only on the roll. I then moved the court of K. B. and got it made a *conſilium*, and paid the clerk of the papers one ſhilling for reading the record in court. I then drew up the rule, and ſent down the cauſe as before, and made four books, and delivered one to each judge, the plaintiff in error not delivering any; and the cauſe coming on, the judgment was affirmed, and I drew up the rule for the affirmance with the clerk of the rules. I then entered up the affirmance, and filed the rolls, but the rolls not being filed till Trinity Term following, I got the maſter to go into the Treaſury at Weſtminſter, who taxed the coſts in the margin of the roll, and alſo on the rule for judgment (taxable ſixpenny ſtamp). I paid fourpence for the poſt term, and one ſhilling to his clerk for filing the roll; and to the maſter three ſhillings for taxing the coſts.

Eaſter.

Easter Term, 1737.

C. *against* C. } IN dower under *nihil habet*.

This was a judgment on an iſſue to the biſhop on the defendant's plea, that plaintiff and her deceaſed huſband were never married, and the biſhop certifying the marriage to a *writ de maritagio inquirendo*, the writ of error was returnable the laſt return of this term, ſo that the defendant had by the courſe of the court till the end of next Trinity Term to tranſcribe. But had the writ of error been returnable ſooner in the term, it would have been otherwiſe; and there being in this caſe a diſpute whether the defendant the plaintiff in error ſhould not put in ſpecial bail, and not take out a rule to tranſcribe till that could be determined, which we agreed to refer to Mr. J. Forteſcue, who in Trinity Term was attended on a ſuppoſed ſummons for plaintiff to ſhew cauſe why execution ſhould not be ſtayed, a writ of error being ſealed, and the act of parliament directing that in dower after verdict ſpecial bail ſhould be given for three years value. It was inſiſted for plaintiff, that the biſhop's certificate being founded on an iſſue to him, and a *writ de maritagio inquirendo* thereon, and he having by his return to that writ found the marriage that was properly a verdict in this cauſe equal to the finding of a jury, as the trial of a marriage was only cognizable by the biſhop; but the other ſide inſiſted that the act of parliament by the word verdict meant a finding of twelve men; and the judge was of that opinion; and that the defendant was not obliged to put in ſpecial bail.

I then took out a rule to tranſcribe; but before the tranſcript came in the defendant died, by which the writ of error abated.

Easter Term, 23. Geo. III.

W. WIDOW. *against* BONE AND OTHERS. } On a judgment in C. P.

Writ of error was returned in B. R. the laſt return of this term. I left a *præcipe* with the curſitor of the county of Devon, and got a writ of error ſealed, and then allowed. Then ſerved defendant in error's agent with a copy, and ſerved the allowance. On the eleventh I put two perſons in as bail for plaintiff in error before Judge Buller, and gave defendant's agent notice (the four days to put in bail being both incluſive.) The twelfth I was ſerved with a rule for better bail, and the ſame evening gave the attorney notice to juſtify in court of C. B. on the fifteenth inſtant. As ſoon as Trinity Term came, the defendant in error got an order in chancery to proceed to affirm the judgment in error, and ſerved me with a rule to certify the record in eight days, whereupon I left ſome money in order to tranſcribe, and afterwards paid the whole tranſcript money. In Trinity Term defendant ſued out two *ſci. fa.* to aſſign errors, and had then returned *nihil*, and afterwards ſerved me with an eight days rule in Michaelmas Term to aſſign errors on record.

INSTRUCTIONS.—When you are ſerved with an allowance of a writ of error, you get a rule from the clerk of the errors (in caſe bail is required) to put in better bail, and ſerve copy on the attorney for the plaintiff in error, and when the bail have juſtified, you have another rule from the clerk of the errors for plaintiff in error to tranſcribe the record in eight days. You pay four ſhillings for each rule.

NOTE.—That you may meet with as little delay as poſſible, enter up your final judgment on the roll, and docket it, and carry it to the clerk of the errors to be by him tranſcribed, and he will file it with the clerk of the eſſoins;

eſſoins; and when the record is tranſcribed, and you have examined the tranſcript carefully, the clerk of the errors files it with the writ of error and the chief juſtice's return annexed with in the K. B. office, and then, and not before, you make out a writ of *ſcire facias quare executionem non, &c.* which is ſigned by M. H. pay one ſhilling and eightpence, and the plaintiff in error muſt either be ſummoned in this writ by the ſheriff or an *alias* muſt iſſue. This writ muſt lie four days in the ſheriff's office before the return; and in caſe of an *alias ſcire facias*, each muſt be four days there before the return, and there muſt be fifteen between the *teſte* and return of the *ſcire facias*, with notice, or in caſe of an *alias ſcire facias*, then fifteen days between the *teſte* of the firſt *ſcire facias* and the return of *alias ſcire facias*. On the return of the firſt *ſcire facias* with notice, or in caſe of two *alias ſcire facias*, a rule is given with the clerk of the rules for the plaintiff in error to appear and aſſign errors; but no formal appeal is entered, for in fact the appeal is by ſigning error; and if errors are not aſſigned, you may ſign *non proſ.* for want thereof; but then you have no coſts. Many times the plaintiff's agent in error gives the defendant's agent a notice that he will appear for plaintiff, and then a rule is given by the matter on part of the proceedings, and entered with the clerk of the rules to aſſign errors. If the plaintiff aſſigns, and alledges the want of an original, or warrant of attorney, you get a rule from the maſter to return the writ or writs of *certiorari*, which being entered with the clerk of the errors, you ſerve it on the plaintiff's attorney to return the ſame; and if you find none returned and filed with when the rule is out you return *in nullo, &c.* and pay therewith two ſhillings and fourpence for the entry; and if the writ is brought meſely for delay, you make an entry of the proceedings on a treble penny ſtamp, and alſo on the roll, and enter the ſame with on producing the roll marked for a *conſilium*, which you draw up, and ſet down the cauſe with the clerk of the papers, and enter your proceedings on the roll, and make up the paper books for the judges. The defendant in error delivers to the two *puiſne* judges four days before day of argument, and if more delivered by the plaintiff to the ſenior judges, you alſo deliver them a copy two days before the day for which the cauſe is ſet down to be argued. N. B. If you deliver all the books, the other ſide cannot be heard by counſel. When the court has given judgment, draw up the rule, and get it ſtamped with double two ſhilling and ſixpenny ſtamps, and carry it and your roll to the Maſter, and he ſigns the affirmance and taxes the coſts by the delay of execution.

LITCHFIELD *againſt* SMITH.

The plaintiff in error having aſſigned ſeveral frivolous ſpecial errors merely for delay, I therefore ſtayed till the end of the vacation, and then ſerved the plaintiff with a four day rule to return the *certiorari*, which he had prayed for in the aſſignment of errors.

The *certiorari* not being returned within the time, I made an entry that the chief juſtice had not returned the writ, &c. And I filed a general replication of *in nullo, &c.* By this means the plaintiff was prevented from arguing the ſpecial errors aforeſaid, and the judgment was affirmed of courſe.

The plaintiff took out a ſummons for time to return the *certiorari*, but Baron Perrot refuſed to allow a moment's time. The plaintiff upon the affirmance day moved that it might ſtand over, but this the court alſo denied.

Aſſignment of general errors.

In the Exchequer Chamber.

BURTON *againſt* OWSON. } AFTERWARDS, to wit, on Wedneſday next the day of , in the twelfth year, &c. before the ſaid juſtices of the C. B. and the barons of the exchequer

chequer chamber, comes the ſaid G. B. by J. A. his attorney, and ſays, that in the record and proceedings aforeſaid, and alſo in giving the judgment aforeſaid, there is manifeſt error in this, to wit, that the declaration aforeſaid in the ſaid record mentioned, and upon which the ſaid judgment is given in form aforeſaid, and the matters therein contained, are not ſufficient in law for the ſaid W. O. to maintain his aforeſaid action againſt the ſaid G. B. therefore in that there is manifeſt error; there is alſo error in this, to wit, that by the record aforeſaid here ſent it appears that the judgment aforeſaid in form aforeſaid given was given for the ſaid W. O. againſt the ſaid G. B. whereas by the law of the land that judgment ought to have been given for the ſaid G. againſt the ſaid W. therefore in that caſe there is manifeſt error; and the ſaid G. prays that the judgment aforeſaid for the errors aforeſaid, and other errors being and appearing in the ſaid record and proceſs, may be reverſed, annulled, and held utterly for nothing, and that the ſaid William may rejoin to theſe errors.

THO. WALKER.

Joinder in error from C. P. to K. B.

And hereupon the ſaid in their proper perſons voluntarily come before into court, and having heard the errors aforeſaid forthwith, ſay, that neither in the record and proceedings aforeſaid, nor in giving the judgment aforeſaid, is there any error; and pray that the court of our lord the king now here would proceed to the examination as well of the record and proceedings aforeſaid, as of the matters above aſſigned for, and that the judgment aforeſaid may be affirmed; but becauſe the court of our ſaid lord the king now here is not yet adviſed what judgment to give of and concerning the premiſes a day is therefore given to the parties aforeſaid to come before the ſaid lord the king on , wheresoever, &c. to hear the judgment aforeſaid; for that the court of the ſaid lord the king now here is not yet adviſed, therefore, &c.

Direction of a *latitat* to the county palatine of Lancaſter.

TO the chancellor of our county palatine of Lancaſter or to his deputy.

To Cheſter.

To the chamberlain of our county palatine of Cheſter, or to his deputy.

To Durham.

To the right reverend father in God, R. lord biſhop of Durham, or to his deputy there, greeting: Whereas, [as in other *latitats* till] run up and down and ſecrete themſelves in your biſhoprick; therefore we command you that by our writ under the ſeal of your biſhoprick duly to be made out and to be directed to the ſheriff of Durham aforeſaid, you cauſe the ſaid ſheriff to be commanded, &c.

For Berwick-upon-Tweed.

To the mayor and bailiffs of our borough of Berwick-upon-Tweed.

AC ETIAMS.

In a *latitat* in debt.

AND alſo to a bill of the ſaid ſaid A. againſt the ſaid B. for pounds debt, according to the cuſtom of our court before us to be exhibited.

To be double the ſum ſworn to.

In a bill of Middleſex in debt, with two defendants ſeverally.

And alſo to a bill of the ſaid A. againſt the ſaid B. and C. ſeverally for pounds debt, according to the cuſtom of our court of the lord the king, before the king himſelf to be exhibited.

In caſe.

And alſo to a bill of the ſaid A. againſt the ſaid B. for pounds, upon promiſes, according. [*Vide* difference between *latitat* and bill, as above.]

To a *latitat* againſt two defendants, one for debt and the other on promiſes.

And alſo to ſeveral bills of the ſaid A. againſt the ſaid B. and C. ſeverally, to wit, againſt the ſaid B. for pounds debt, and againſt the ſaid C. upon promiſes, according, &c.

Againſt four defendants, two in debt and two in promiſes.

And alſo to ſeveral bills of the ſaid A. againſt the ſaid B. C. D. and E. to wit, againſt the ſaid B. and C. ſeverally for a debt of pounds, and againſt the ſaid D. and E. for pounds, upon promiſes, according, &c.

In detinue.

And alſo to a bill of the ſaid M. againſt the ſaid N. for detaining the goods and chattels of the ſaid M. to the value of pounds, according, &c.

In trover.

And alſo to a bill of the ſaid P. againſt the ſaid Q. for converting and diſpoſing of the goods and chattels of the ſaid P. to the value of pounds, according, &c.

For breach of covenant.

And alſo, &c. for breach of certain covenants made by the ſaid T. to the ſaid U. to the damage of the ſaid U. of pounds, according, &c.

In aſſault, by a judge's order.

And alſo, &c. for a certain treſpaſs and aſſault committed by the ſaid N. on the ſaid O. to the damage of the ſaid O. of pounds, according, &c.

Indorſe it thus:

Take bail for pounds, by order of lord Kenyon.

BEGINNINGS AND CONCLUSIONS TO DECLARATIONS, &c. IN INFERIOR AND SUPERIOR COURTS.

Beginning of a declaration in *aſſumpſit* in B. R. by bill.

MIDDLESEX, to wit. A. B. complains of C. D. being in the cuſtody of the marſhal of the Marſhalſea of our lord the now king, before the king himſelf, in a plea of treſpaſs on the caſe [as the

the caſe is]; for that whereas, &c. [Go on with the declaratory part].

To the damage of the ſaid A. B. of pounds, for which he brings his ſuit, &c. Concluſion to a declaration in B. R. by bill.

(*a*) Pledges to proſecute { John Doe and Richard Roe.

(*a*) Pledges are put to declarations in B. R. and in the exchequer (and in the common pleas where proceedings are for or againſt privileged perſons), becauſe originally, by the common law, no perſon was entitled to bring an action till he had firſt found pledges to proſecute ſuch writ; and then thoſe pledges to proſecute were not *fictitious* but *real* perſons. Wiſdom and experience have found it neceſſary to excuſe finding theſe real pledges, but as the law is ſtill the ſame, the fictitious names of John Doe and Richard Roe are uſed inſtead of real pledges formerly found. Therefore a proceeding in the king's bench or exchequer, as alſo in the common pleas when for or againſt privileged perſons, being brought by bill (and not by original), which is ſuppoſed to be the commencement of a ſuit, the pledges are firſt ſhewn on the bill, and conſequently on the declaration as being an exact copy of the bill. In proceedings by original the pledges are omitted in the declaration, becauſe the original is the firſt proceſs and is ſued out of the court of chancery, where pledges are ſuppoſed to be found before the original is ſued out; and the original mentions, that becauſe the plaintiff hath found pledges to proſecute his ſuit, therefore the ſheriffs commanded. &c.

MIDDLESEX, to wit. C. D. late of *Weſtminſter in the county of Middleſex*, *yeoman*, (*b*) was *attached* [*or ſummoned*] to anſwer unto A. B. *in a plea of treſpaſs on the caſe* [as the caſe is]; and thereupon the ſaid A. B. by X. Y. his attorney, complains, that whereas, &c. [Go on with the declaratory part.] Beginning of a declaration in C. B. by original.

(*b*) In the common pleas you muſt always put the defendant's addition, that is, by place of abode, his degree, profeſſion, or trade. For the reaſon, *ſee Doctrine Placitandi*, ed. 1771, in Engliſh, fo 65.

Wherefore the ſaid A. B. ſaith he is injured, and hath ſuſtained damage to the amount of pounds, for which he brings his ſuit, &c. [Omit pledges.] Concluſion to a declaration in C. B. by original.

MIDDLESEX, to wit. A. B. a debtor of our ſovereign lord the now king cometh before the barons of the exchequer on the day of in this ſame term, by C. D. his attorney, and complains by bill againſt E. F. preſent here in court the ſame day, *in a plea of treſpaſs on the caſe*, &c.; for that whereas, &c. [Go on with the declaratory part.] Beginning of a declaration in the exchequer of pleas, by bill in *aſſumpſit*.

To the damage of the ſaid A. B. of pounds, whereby he is the leſs able to ſatisfy our ſaid lord the now king the debts which he Concluſion to a declaration in the exchequer of pleas, by bill in *aſſumpſit*.

he owes to his majeſty's exchequer; and therefore he brings his ſuit, &c. [Add pledges.] (*a*)

(*a*) The reaſon of this form is becauſe the court of exchequer is ſuppoſed to be a court only in aid of the king's debtors, and all proceedings there conclude in the ſame manner.

Beginning of a *præcipe*, or rather a *ſi te fecerit ſecurum* or a *pone*, in caſe in B. R.

MIDDLESEX, to wit. If A. B. make you ſecure, &c. [to proſecute his ſuit] then put, &c. [by ſafe and ſure pledges] C. D. late of , that he be before our lord the king, on , [a general return day] whereſoever, &c. [our ſaid lord the king ſhall then be in England] to ſhew; for that whereas, &c. [Go on with the declaratory part.]

Concluſion to ditto.

[Concluſion ſame as to declaration in B. R. only inſtead of the words "for which he brings his ſuit," ſay, "*as it is ſaid.*"]

[Omit pledges, which are not ſuppoſed to be yet found. You muſt omit all *proferts in curia*, the cauſe not being yet in court.]

Beginning of a declaration in the borough court, in caſe.

BOROUGH COURT OF SOUTHWARK, to wit. A. B. by C. D. his attorney, complains of C. A. in a plea of treſpaſs on the caſe; for that whereas the ſaid C. A. on the day of , in the year of Our Lord , to wit, at Southwark in the county of Surry, and within the juriſdiction of this court (*b*), &c. [Every thing ſubſequent as in B. R. Add pledges.]

(*b*) You muſt be careful to lay the concluſion as well as the *aſſumpſit* within the juriſdiction. *Vide* 4. Bac. Abr. 83.

Beginning of a declaration in the marſhalſea court, in caſe.

PALACE COURT, to wit. A. B. by X. Y. his attorney, complains of C. D. of a plea of treſpaſs on the caſe, &c.; for that whereas the ſaid C. D. on, &c. at in the county of , and within the juriſdiction of this court (*c*), &c. [Every thing ſubſequent as in B. R. only adding after ſuit the following averment, "and the ſaid A. B. doth aver that, &c. neither he nor the ſaid C. D. were, nor was either of them, at the time of the levying of the plaint of the ſaid A. B. here in court, nor are they, nor is either of them now of the king's houſehold.]

(*c*) You muſt alſo be careful here to lay the conſideration as well as the *aſſump-ſit* within the juriſdiction. *Vide* 4. Bac. Abr. 33.

A *præcipe* in covenant.

MIDDLESEX, to wit. Command C. D. late of, &c. that juſtly and without delay he keep with A. B. the covenant made between them the ſaid A. B. and C. D. according to the force, form, and effect of a *certain indenture*, [*or a certain deed-poll, or certain articles of agreement*,] thereof made between them, &c. as it is ſaid, &c. unleſs, &c.

Præcpe in debt. 3 Bl. Com. 274.

MIDDLESEX, Command C. D. late of, &c. that juſtly and without delay he render unto A. B. pounds, of good and lawful money of Great Britain, which he the ſaid C. D. owes to (*a*) and unjuſtly detains from him, as it is ſaid; and unleſs, &c.

(*a*) In actions of debt by or againſt executors or adminiſtrators, you omit the words in Italic, there being no debt immediately between the parties.

In covenant and debt, both in B R. and C. B. where you ſue by original, the *præcipe* is no more than as above, varying from originals in caſe; becauſe in the former the demands are certain, in the latter ariſing on their own particular circumſtances. *Vide* Proceedings at large in Debt, 3. Bl. Com. App. 13. No. 3. and the difference between a *præcipe* and *ſi te fecerit ſecurum*, *ibid* 274.

Præcipe for writ of *juſticies* in caſe.

——, to wit. Writ of *juſticies*, directed to the ſheriff of the county of , to hold plea in the county court for A. B. againſt C. D. *in a plea of treſpaſs on the caſe*, &c.; for that whereas, &c. [The concluſion to this *præcipe* is like that to the *præcipe* in B. R. in caſe, above.]

Beginning of declaration at ſuit of an attorney of the king's bench.

MIDDLESEX, to wit. A. B. gentleman, one of the attornies of the court of our ſovereign lord the now king, before the king himſelf preſent here in court in his own perſon, according to the liberties and privileges of the ſaid court for ſuch miniſters and other officers of the ſaid court, from time immemorial uſed and approved of, complains of C. D. being, &c. [Every thing ſubſequent as in other declarations in B. R. Add pledges, &c.]

As to proceedings by and againſt attornies. *Vide* 2. Cromp. Prac. 116.

Beginning of a bill againſt an attorney of the king's bench.

MIDDLESEX, to wit. A. B. complains of C. D. gentleman, one of the attornies of the court of our lord the now king, before the king himſelf preſent here in court in his own perſon of a plea, &c.; for that whereas, &c. [as before only at the end inſtead of ſaying, "for which he brings his ſuit, &c." ſay, "*for which he prays relief*, &c. Add pledges, &c.]

Beginning of a declaration, at ſuit of an attorney in C. P.

MIDDLESEX, to wit. C. D. late of, &c. was *attached* by his majeſty's writ of privilege iſſuing out of the court here, to anſwer unto A. B. gentleman, one of the attornies of his majeſty's court of the bench here, according to the liberties and privileges of the ſaid court for ſuch attornies and other miniſters of the ſaid court, from time immemorial uſed and approved of, in a plea of, &c.; and thereupon the ſaid A. B. in his own proper perſon complains, that whereas, &c. [Add pledges.]

To the juſtices of our lord the king of the bench:

Beginning of a bill againſt an attorney of common pleas.

MIDDLESEX, to wit. A. B. by X. Y. his attorney, complains of C. D. gentleman, one of the attornies of his majeſty's court of the bench, preſent here in court in his own proper perſon, of a plea, &c.; for that whereas, &c. [At the end ſay, "for which he prays relief, &c." Add pledges.]

Beginning of a declaration on a bill againſt an attorney of C. P.

MIDDLESEX. Be it remembered, that on next after in this ſame term comes into court here A. B. by his attorney, and brings here into his majeſty's court his bill againſt C. D. one of the attornies of his majeſty's court of the bench, preſent here in court in his own proper perſon, in a plea of, &c.; and there are pledges for the proſecution, to wit, John Doe and Richard Roe; the tenor of which ſaid bill follows in theſe words, to wit: To the juſtices of our lord the king of the bench. Middleſex, to wit: A. B. by his attorney complains, &c. [To the end of the bill preceding, omitting the pledges.]

Beginning of a bill in the petty bag office, againſt one of the ſix clerks.

MIDDLESEX, to wit. A. B. by X. Y. his attorney, complains of C. D. gentleman, one of the clerks of E. F. eſquire, he the ſaid E. F. being one of the ſix clerks of the high court of chancery of our lord the now king, before the king preſent here in court in his own proper perſon of a plea of, &c. [Every thing ſubſequent as in B. R. Add pledges.]

Beginning of a declaration at ſuit of aſſignees of a bankrupt.

MIDDLESEX, to wit. A. B. and C. D. aſſignees of the eſtate and effects of E. F. a bankrupt, within the true intent and meaning of the ſeveral ſtatutes made and now in force concerning bankrupts (*a*), *ſome or one of them* complain of G. H. being in the cuſtody, &c.

(a) This is in general the language of the declaration of the bankruptcy, and it may therefore be as well to adopt it in all future proceedings under or relative to a commiſſion. Coke's Bankrupt Laws, 306. Cowp. 596. Richardſon's B. R. 153.

Beginning of a declaration at ſuit of aſſignee of an inſolvent debtor, in B. R.

MIDDLESEX, to wit. A. B. aſſignees of the debts, goods, and effects of C. D. late of, &c. heretofore an inſolvent priſoner, and duly diſcharged from his impriſonment in purſuance of a certain act of parliament made at Weſtminſter in the county of Middleſex, in the year of the reign of our ſoverign lord the now king, entitled, An Act, &c. [ſet forth the title of the act *verbatim*], complains of E. F. being, &c. [Add pledges, &c.]

Beginning of a declaration at ſuit of aſſignee of a bail bond in debt on bill, in B. R.

MIDDLESEX, to wit. A. B. aſſignee of E. F. eſquire, ſheriff of the county of , according to the form of the ſtatute in ſuch caſe made and provided, complains of C. D. being in the cuſtody,

cuſtody, &c. of a plea that he render unto the ſaid A. B. aſſignee as aforeſaid, pounds, of lawful money of Great Britain, which he the ſaid C. D. owes to and unjuſtly detains from him the ſaid A. B. &c.; for that whereas, &c. Pledges, &c.

[Theſe three laſt forms are in B. R. but may be eaſily applied to C. P. by ſaying C. D. late of, &c. was *attached* (or if in debt or covenant, *ſummoned*) to anſwer unto A. B. aſſignee, &c. (ſtating the addition as in B. R.) in a plea of, &c.; and whereupon, &c.]

MIDDLESEX, to wit. A. B. complains of C. D. being in the cuſtody, &c. of a plea of breach of covenant; for that whereas by a certain indenture, [*or deed-poll, or articles of agreement*] bearing date, &c. between, &c. &c. (one part of which ſaid indenture ſealed with the ſeal of C. D. the ſaid A. B. brings here into court, the date whereof is the day and year aforeſaid), &c. &c. Beginning of a declaration in covenant, in king's bench, by bill.

And ſo the ſaid A. B. ſaith that he the ſaid C. D. (although often requeſted by him the ſaid A. B.) hath not yet kept his ſaid covenant ſo by him made with the ſaid A. B. in this behalf as aforeſaid, but hath broken the ſame, and to keep the ſame with the ſaid A. B. hath hitherto wholly refuſed, and ſtill refuſes ſo to do. Damages, &c. Pledges, &c. Concluſion to declaration in covenant, by bill.

MIDDLESEX, to wit. C. D. late of, &c. (*a*) was *ſummoned* to anſwer unto X. Y. in a plea that he keep with him the covenant made between the ſaid X. Y. and the ſaid C. D. according to the force, form, and effect of a certain indenture, [*or deed-poll, or articles of agreement*] made between them the ſaid X. Y. and C. D.; and thereupon, &c. Beginning of a declaration in covenant in common pleas, by original.

[At the end, after bring ſuit, &c. you muſt make a *profert in curia* of the indenture, &c. (*b*)]; and he alſo brings into court here the ſaid indenture, ſealed with the ſeal of the ſaid C. D. and the date whereof is the day and year aforeſaid. Concluſion to ditto.

(*a*) In the common pleas all *profert in curia* are made at the end of the declaration, otherwiſe in B. R.

(*b*) In the common pleas the proceſs in covenant is by ſummons.

MIDDLESEX, to wit. N. B. complains of X. Y. being in the cuſtody, &c. in a plea that he render unto him the ſaid N. B. pounds of lawful money of Great Britain, which he *owes* to and unjuſtly detains from him, &c.; for that whereas, &c. Beginning of a declaration in debt in B. R. by bill.

Yet the ſaid X. Y. (although often requeſted by the ſaid N. B.) hath not as yet rendered the ſaid ſum of pounds above demanded, or any part thereof, to the ſaid N. B. but he to render the ſame, Concluſion to ditto.

or any part thereof, to the ſaid N. B. hath hitherto wholly refuſed and ſtill refuſes ſo to do. Damages, &c. Pledges, &c.

In actions of debt by or againſt executors or adminiſtrators you omit the words in Italic, as there is no debt immediately between the parties.

In actions of debt the damages are nominal.

Beginning of a declaration in debt in common pleas, by original.

MIDDLESEX, to wit. P. X. late of, &c. was (*a*) *ſummoned* to anſwer unto O. B. in a plea that he render unto the ſaid O. B. pounds, which he *owes to* and unjuſtly detains from him; and thereupon, &c. [Similar concluſion as in B. R. only omitting pledges]

(*a*) In the common pleas the proceſs in debt is by ſummons.

Beginning of a declaration *qui tam*, &c. in king's bench, by bill.

MIDDLESEX, to wit. V. X. who ſues as well *for our ſovereign lord the king* [*or for the poor of the pariſh of*], as for himſelf in this behalf, complains of M. N. being in the cuſtody, &c. of a plea that he render *to our ſaid ſovereign lord the king*, [or *to the poor of the ſaid pariſh*], and to him the ſaid V. X. who ſues as aforeſaid, pounds of lawful money of Great Britain, which he owes to and unjuſtly detains from them, &c.; for that whereas, &c.

Concluſion to ditto.

Yet the ſaid M.N. (although often requeſted, &c.) hath not yet rendered the ſaid ſum of pounds above demanded, or any part thereof, *to our ſaid lord the king*, [or *the poor of the ſaid pariſh*], and to the ſaid V. X. who ſues as aforeſaid, or to either of them; but he to render the ſame, or any part thereof, to *our ſaid ſovereign lord the king* [or *the poor of the ſaid pariſh*] and the ſaid V. X. who ſues as aforeſaid, or to either of them, hath hitherto wholly refuſed, and ſtill doth refuſe ſo to do, to the damage of the ſaid V. X. who ſues as aforeſaid of pounds, and therefore, as well for *our ſaid lord the king* [or *the poor of the pariſh*] as for himſelf in this behalf, he brings his ſuit. Pledges, &c.

Beginning of a declaration *qui tam*, &c. in common pleas, by original.

MIDDLESEX, to wit. K. M. late of, &c. was *ſummoned* to anſwer unto L. X. who ſues as well, &c. [as in the laſt precedent], in a plea that he render, &c; and thereupon the ſaid L. X. who ſues as aforeſaid, by G. O. his attorney, complains that, &c. [Concluſion as in B. R. omitting pledges.]

In *qui tam* actions the *venire* muſt be laid in the proper county.

Beginning of a declaration in treſpaſs in B. R. by bill.

MIDDLESEX, to wit. A. B. complains of N. O. being in the cuſtody, &c.; (*a*) for that the ſaid N. O. heretofore on, &c.

(*a*) The treſpaſs muſt be poſitively alledged, and not with a *wherreas*, which would be bad upon a demurrer, the treſpaſs being alledged by way of recital.

with

with force and arms, &c. at &c. *made an aſſault, &c.* and other wrongs to the ſaid A. B. then and there did (*a*) againſt the peace of our lord the now king, &c. and to the damage of the ſaid A. B. of pounds, for which he brings ſuit, &c. Pledges, &c.

(*a*) This a neceſſary allegation in treſpaſs.

Treſpaſs *quare clauſum fregit* is a local action.

MIDDLESEX, to wit. N. O. late of, &c. was *attached* to anſwer unto A. B. in a plea wherefore with force and arms *he made an aſſault*, (*or broke and entered, &c.*) [reciting the facts complained of, with an omiſſion of the circumſtances of time, quantity, ſums, &c. after which you ſtate the *alia enormia* thus, "and other wrongs to the ſaid A. B. there did againſt the peace of our ſaid lord the king, and to the great damage of the ſaid A. B.; and thereupon the ſaid A. B. by his attorney, complains, that, &c." [repeating the facts complained of, and alſo the *alia enormia*, with the circumſtances of time, quantity, and ſums.]

Beginning of a declaration in treſpaſs in common pleas, by original.

[IN replevin the action being *commenced*, or at leaſt removed by original writ, and being in its nature an action of treſpaſs the form of the declaration therein is the ſame as the laſt precedent, whether in B. R. or in common pleas, with this only difference, that in replevin you ſtate the defendant to have been (*a*) *ſummoned* to anſwer, and not attached as in treſpaſs.]

Beginning of a declaration in replevin.

(*a*) Qu.—See Gilbert's Law of Diſtreſs and Replevin, 76.

MIDDLESEX, to wit. A. B. executor of the laſt will and teſtament of G. H. deceaſed, complains of O. P. being in the cuſtody of the marſhal, &c.; for that whereas the ſaid O. P. heretofore, in the lifetime of the ſaid G. H. to wit, on, &c. was indebted to the ſaid G. H. in pounds of lawful, &c. for, &c.; and being ſo indebted he the ſaid O. P. in conſideration thereof, afterwards, in the lifetime of the ſaid G. H. to wit, on, &c. aforeſaid, at, &c. aforeſaid, undertook, &c. promiſed the ſaid G. H. to pay him, &c.

Beginning of a declaration in *aſſumpſit*, at ſuit of an executor, in B. R. by bill.

Yet the ſaid O. P. not regarding, &c. but contriving, &c. to deceive and defraud the ſaid G. H. in his lifetime, and the ſaid A. B. as ſuch executor as aforeſaid ſince his deceaſe, hath not as yet paid, &c. either to the ſaid G. H. in his lifetime, or to the ſaid A. B. as ſuch executor as aforeſaid, ſince his deceaſe, (although to pay the ſame he the ſaid O. P. was requeſted as well by the ſaid G. H. in his lifetime, to wit, on, &c. aforeſaid, as by the ſaid A. B. as ſuch executor as aforeſaid, ſince his death, to wit, on, &c. at, &c. aforeſaid; but he ſo to do hath hitherto wholly refuſed, and

Concluſion to ditto.

and ſtill refuſes to pay the ſame, or any part thereof, to the ſaid A. B. as ſuch executor as aforeſaid, to the damage of the ſaid A. B. as ſuch executor as aforeſaid, of pounds, for which he brings his ſuit, &c.; and he alſo brings into court here the letters teſtamentary of the ſaid G. H. whereby it fully appears to the ſaid court here that the ſaid A. B. is executor of the laſt will and teſtament of the ſaid G. H. and hath adminiſtration thereof, &c. [Add pledges, &c.]

Vide 3. Wilſon, 1. where plaintiff declaring as indorſee of the adminiſtrator of A. B. of a note payable to him or order, need not make a profert of the letters of adminiſtration, and the reaſon.

Beginning of a declaration at ſuit of an executor, in common pleas, by original.

MIDDLESEX, to wit. N. V. late of, &c. was *attached* to anſwer unto A. B. executor of the laſt will and teſtament of G. H. deceaſed, in a plea of, &c.; and thereupon the ſaid A. B. as ſuch executor as aforeſaid, by X. Y. his attorney, complains, &c.

Concluſion to ditto.

[Concluſion ſame as in B. R. adding a ſimilar *profert* of letters teſtamentary, omitting pledges, &c.]

Beginning of a declaration in *aſſumpſit*, againſt an executor, in B. R. by bill.

MIDDLESEX, to wit. A. B. complains of O. P. *executor of the laſt will and teſtament of G. H.* (*a*) deceaſed, being in the cuſtody, &c. in a plea, &c.; for that whereas the ſaid G. H. in his lifetime was indebted, &c &c.; and being ſo indebted he the ſaid G. H. afterwards, in his lifetime, &c. undertook, &c.

(*a*) That this is the proper form though defendant be executor in his own wrong, *vide* Coulter's caſe, 5 Co. 50. b. 31. a. Yelv. 137 1. Brownl. 103. Godolphin, 91. 93. Salk. 28.

Concluſion to ditto.

Yet the ſaid G. H. in his lifetime, and the ſaid O. P. as ſuch executor as aforeſaid, ſince his death, not regarding the ſaid ſeveral promiſes, &c. of the ſaid G. H. ſo by him in manner and form aforeſaid made, but contriving, &c. have not, nor hath either of them as yet paid, &c. to the ſaid A. B. (although to pay the ſame the ſaid G. H. in his lifetime, to wit, on, &c. at, &c. aforeſaid, and the ſaid O. P. as ſuch executor as aforeſaid, ſince his death, to wit, on, &c at, &c. were reſpectively requeſted by the ſaid A. B. but they ſo to do have, and each of them hath hitherto wholly refuſed, and the ſaid O. P. as ſuch executor at aforeſaid, ſtill refuſes to pay the ſame or any part thereof, to the ſaid A B. to the damage of the ſaid A. B. of pounds, for which he brings his ſuit, &c.

Vide Godolphin, 91; a good reading on the liability of executors in their own wrong.

The forms of pleading are very different where a perſon is charged as executor, and when perſonally. In the firſt caſe he is named executor in the beginning of the declaration, and afterwards ſtated to be liable as executor, and the promiſes alledged to have been made as executor; but in the latter caſe he is charged *generally*, Cowp. Rep. 292.

MID-

MIDDLESEX, to wit. C. D. late of, &c. executor of the laſt will and teſtament of G. H. deceaſed, was attached to anſwer unto A. B. in a plea of, &c.; and thereupon the ſaid A. B. by his attorney, complains, &c.

Beginning of a declaration in *aſſumpſit* againſt an executor, in C.P. by original.

[Concluſion ſame as in R. B. only omitting pledges, &c.]

Concluſion to ditto.

MIDDLESEX, to wit. A. B. adminiſtrator of all and ſingular the goods and chattels, rights and credits, which were of G. H. deceaſed, at the time of his death, who died inteſtate, complains of V. W. being, &c.; for that whereas the ſaid V. W. heretofore, in the lifetime of the ſaid G. H. to wit, on, &c. at, &c. was indebted, he the ſaid V. W. in conſideration thereof, afterwards, in the lifetime of the ſaid G. H. to wit, on, &c. at, &c. aforeſaid, undertook and faithfully promiſed the ſaid G. H. to pay him, &c.

Beginning of a declaration in *aſſumpſit*, at ſuit of an adminiſtrator, in B.R. by bill.

Yet the ſaid G. H. not regarding, &c. but contriving, &c. to deceive and defraud the ſaid G. H. in his lifetime, and the ſaid A. B. as ſuch adminiſtrator as aforeſaid, ſince the death of the ſaid G. H. (to which ſaid A. B. adminiſtrator of all and ſingular the goods and chattels, rights and credits, which were of the ſaid G. H. at the time of his deceaſe, was by , by divine providence archbiſhop of Canterbury, primate of all England, and metropolitan, on the day of , in the year of Our Lord [the date of the letters of adminiſtration], (*a*) at, &c. aforeſaid, in due form of law committed) hath not as yet paid, &c. either to the ſaid G. H. in his lifetime or to the ſaid A. B. adminiſtrator as aforeſaid, ſince his deceaſe, (although ſo to do he the ſaid V. W. was requeſted by the ſaid G. H. in his lifetime, to wit, on the ſaid day of , in the year aforeſaid, and by the ſaid A. B. as ſuch adminiſtrator as aforeſaid, ſince the death of the ſaid G. H. to wit, on, &c. and often afterwards, to wit, at, &c. aforeſaid; but he ſo to do hath hitherto wholly refuſed, and ſtill refuſes to pay the ſame, or any part thereof to the ſaid A. B. adminiſtrator as aforeſaid, to the ſaid A. B. as ſuch adminiſtrator as aforeſaid his damage of pounds, for which he brings his ſuit, &c.; and he alſo brings into court here the letters of adminiſtration of the ſaid archbiſhop, which ſufficiently teſtify to the court here the granting of the adminiſtration aforeſaid to the ſaid A. B. the date whereof is the day and year in that behalf above-mentioned. Pledges, &c.

Concluſion to ditto.

(*a*) In an action of debt by an adminiſtrator he muſt ſhew where adminiſtration was committed, *aliter* of an executor; for he need not ſhew where made ſo, becauſe he may be executor of his own wrong, 35. H. 6. Heath's Maxims of Pleading, f. 6.

MIDDLESEX, to wit. V. W. late of, &c. was attached to anſwer unto P. Q. adminiſtrator of all and ſingular the goods and chattels, rights and credits, which were of K. L. deceaſed, at the time

Beginning of a declaration in *aſſumpſit* at ſuit of an adminiſtrator in, C. P. by original.

time of his death, who died inteſtate, in a plea of, &c.; and thereupon the ſaid P. Q. as ſuch adminiſtrator as aforeſaid, by V. U. his attorney, complains, &c.

Concluſion. [Concluſion ſame as in B. R. adding a ſimilar profert and concluſion to ditto of the letters of adminiſtration, omitting the pledges, &c.]

Beginning of a declaration againſt an adminiſtrator, in B. R. or C. P. [THE beginnings and endings of declarations againſt adminiſtrators are the ſame both in B. R. and C. P. as thoſe againſt executors in the reſpective courts, only ſubſtituting the deſcription, "adminiſtrator of all the ſingular the goods and chattels, rights and credits which were of G. H. deceaſed, at the time of his death, who died inteſtate," inſtead of executor of the laſt will and teſtament of G. H. deceaſed.

It is ſufficient in B. R. to deſcribe defendant as adminiſtrator without ſpecially averring the adminiſtration was committed. Sed qu. in C. P. Vide 2. Vent. 84; 2. Ld. Raym. 1511; 2. Stra. 781.

For the reaſon, 3. Wilſ. 1.; as to the manner and form of granting adminiſtration in all caſes by the eccleſiaſtical court. Vide Wankford and Wankford, Salk. 299. 309.

There are ſeveral ſorts of adminiſtration beſides adminiſtrations of goods and chattels of the inteſtate, viz. adminiſtration of the goods, &c. (of a deceaſed perſon) with the will annexed, which is committed when a man makes a will without appointing an executor, or when he appoints an executor who dies before him or refuſes to act. There is likewiſe an adminiſtration of the goods of a perſon deceaſed during the minority of another, which is committed when the next of kin is not of proper age to take the probate of the will or the adminiſtration of the inteſtate. There are alſo other kinds of adminiſtration, in all which the beginning of the declaration varies according to the fact, and if the adminiſtration be granted during a limited time, or for a particular purpoſe, you muſt in the concluſion of the declaration aver that the time is not expired, or the purpoſe executed, for which the adminiſtration is granted. The following is the averment to be annexed to a declaration at the ſuit of an *adminiſtrator durante minore ætate* which will give ſome idea of the reſt, with this, that the ſaid A. B. will verify that the ſaid Z. Z. is ſtill within the age of (*a*) ſeventeen years, to wit, of the age of years and no more, to wit, at, &c. aforeſaid.

(*a*) An *adminiſtrator durante minore ætate of an adminiſtratrix* may act and ſue till the perſon in whoſe right he acts be of the age of twenty-one years, 1. Salk. 39; and therefore in ſuch caſe the averment muſt vary accordingly.

Beginning of a declaration at ſuit of an infant, in B. R. by bill. MIDDLESEX, to wit. A. B. by E. F. who is admitted by the court of our lord the king, before the king himſelf, here to proſecute for the ſaid A. B. who is an infant within the age of twenty-one years, as the next friend of the ſaid A. B. complains of C. D. being in the cuſtody, &c. Pledges.

Beginning of a declaration at ſuit of an infant, in C. P. by original. MIDDLESEX, to wit. C. D. late of, &c. was attached to anſwer unto A. B. in a plea of, &c. and thereupon the ſaid A. B. by E. F. who is admitted by the court here to proſecute for the ſaid

ſaid A. B. who is an infant within the age of twenty-one years, as the next friend of the ſaid A. B. complains, &c. Omit pledges, &c.

The reaſon of the two laſt forms is becauſe an infant cannot make an attorney, but muſt ſue by his next friend, and the preparatory proceeding is by petition as follows:

To the right honourable lord chief juſtice of his majeſty's court of , the humble petition of

Sheweth,

That your petitioner having lately brought an action againſt one C. D. [This to be omitted in K. B.] late of in the county of , in a plea of treſpaſs on the caſe, (as it is) and that your petitioner being an infant within the age of twenty-one years, to wit, of the age of years and no more, your petitioner therefore moſt humbly prays your lordſhip to admit him to proſecute the ſaid action by E. F. of your petitioner's next friend; and your petitioner ſhall ever pray. A. B.

The form of a petition by an infant to ſue by *procbein ami* either in B. R. or C. P.

[Under the above petition the following agreement muſt be written.]

I AM deſirous, and do hereby agree, that A. B. of in the county of in the petition above named, may be admitted to proſecute this action by me as his next friend, according to the above petition, and I do hereby promiſe and agree to pay all coſts that ſhall or may happen for or on account thereof. Witneſs my hand this day of 17 . E. F.

Agreement by *procbein ami* to pay coſts, &c.

To ſupport the infant's petition the following affidavit muſt be made by ſome perſon who ſaw the infant ſign the petition, and the *procbein ami* ſign the agreement.

In the King's Bench, or Common Pleas.

P. P. of in the county of , maketh oath and ſaith, that on the day of , A. D. A. B. of , did ſubſcribe his name to the petition hereunto annexed in this deponent's preſence, and that on the day and year aforeſaid, E. F. did ſubſcribe his name to the conſent and agreement written below the ſaid petition hereunto annexed in the preſence of this deponent. P. P.

Sworn, &c.

Affidavits of ſigning.

Upon which the judge's clerk makes an admiſſion, and the judge ſigns it, and you declare in form aforeſaid.

Peers, and members of the houſe of commons, may be proceeded againſt *either by original or by bill*; the former was the only mode of proceeding at common law; the latter came in by 12. and 13. W. 3. c. 3.; in proceeding by original the *præcipe* is the ſame as in other caſes, with the additions only of defendant's title, or addition followed by theſe words in a parentheſis (*having privilege of parliament*), but the proceſs thereon being by ſummons, the declaration ſtates, that defendant was *ſummoned in all caſes, and not in any caſe* that

Of proceedings againſt peers and members of parliament.

Query, if this is not confined to peers only.

Vide. 2. Crompton, Bac. p. 127.

that he was *attached* to anſwer. In concluding declarations againſt *peers*, you omit the charge of *fraud and deceit*, as the inſertion of it would incur a breach of privilege. In proceeding *by bill* the forms are as below.

Iriſh peers, as ſuch have no privilege, but are ſued as other perſons, or you ſtile them A. B. eſquire, commonly called , in the kingdom of Ireland.

The privilege of parliament extends to all peers, whether Engliſh or Scotch, and to peereſſes, whether by birth or marriage, alſo to members of the lower houſe; but Iriſh peers, and members of the Iriſh houſe of commons, as ſuch, have not this privilege, nor peereſſes by marriage, who afterwards intermarry with commoners.

Beginning of bill againſt a peer or member of the houſe of commons, in B. R.

MIDDLESEX, to wit. A. B. complains of the right honourable George lord, &c. (or of C. D. eſquire, having privilege of parliament); for that whereas, &c. yet the ſaid, &c. *not regarding, &c but contriving, &c.* [This muſt be omitted in a bill or declaration againſt a peer] hath not, &c. &c. &c. to the damage of the ſaid A. B. of pounds, and thereupon he prays re-

Concluſion to ditto.

lief and his majeſty's proceſs to be made to him againſt ſaid, &c. according to the form of the ſtatute in ſuch caſe made and provided; and it is granted him, &c. Pledges, &c.

In declaring on this bill you omit the prayer at the end of it, but in other reſpects the declaration is entirely conformable to the bill, which never ſtates defendant to be in the cuſtody of the marſhal. *Vide* Say. Rep. 63. 64.

To the juſtices of our lord the king of the bench.

Beginning of a bill againſt a peer or member of the houſe of commons, in C. P.

MIDDLESEX, to wit. A. B. by C. D. complains of the right honourable, &c. (or G. H. eſquire,) having privilege of parliament, of a plea of treſpaſs on the caſe, &c.; for that whereas, &c. [Concluſion to the bill in the common pleas is the ſame as to that in K. B. *Vide ſupra.*]

Hilary Term, George III.

Declaration on bill againſt a peer or member of parliament, in C. P.

BE it remembered, that on in this ſame term came here into court A. B. by his attorney, and brought here into court his certain bill againſt the right honourable, &c. (or E. F. eſq.) having privilege of parliament, in a plea of treſpaſs, &c; and theſe are pledges for the proſecution thereof, to wit, John Doe and Richard Roe, the tenor of which ſaid bill follows in theſe words, that is to ſay, [Here copy the bill *verbatim*, omitting the pledges.]

Concluſion to declaration in B. R. or C. B. in *aſſumpſit*, at ſuit of aſſignee of bankrupt.

Yet the ſaid defendant not regarding his ſaid ſeveral promiſes and undertakings ſo by him made in this behalf as aforeſaid, but contriving, and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid V. L. before he became ſuch bank-

rupt as aforeſaid, and the ſaid plaintiff as ſuch aſſignee as aforeſaid ſince hath not as yet paid the ſaid ſeveral ſums of money in thoſe promiſes and undertakings mentioned, or any, or either of them, or any part thereof, either to the ſaid V. L. before he became ſuch bankrupt as aforeſaid, or to the ſaid plaintiff as ſuch aſſignee as aforeſaid ſince, (although to do this defendant was requeſted by the ſaid V. L. before he became ſuch bankrupt as aforeſaid, to wit, on the day and year aforeſaid, and often afterwards, to wit, at, &c. aforeſaid, and by ſaid plaintiff as ſuch aſſignee as aforeſaid, ſince the ſaid V. L. became ſuch bankrupt as aforeſaid, to wit, on the day of , A. D. and often, both before and afterwards, to wit, at, &c. aforeſaid), but he the ſaid defendant to pay the ſame, or any part thereof hath always wholly refuſed, and he doth ſtill refuſe to pay the ſame or any part thereof to the ſaid plaintiff as ſuch aſſignee as aforeſaid his damages of pounds, for which he brings his ſuit, &c. If in B. R. add pledges.

Conclusion to declaration in *aſſumpſit*, at ſuit of executor againſt huſband and wife, adminiſtratrix of her late huſband.

Yet the ſaid W. (the inteſtate) in his lifetime, and the ſaid R. adminiſtratrix as aforeſaid, after the death of the ſaid W. and before her intermarriage with the ſaid P. and the ſaid P. and R. his wife, adminiſtratrix as aforeſaid, ſince their intermarriage, not regarding the ſaid ſeveral promiſes, &c. of the ſaid W. in his lifetime, but contriving, &c. to defraud the ſaid E. (plaintiff's teſtator) in his lifetime, and the ſaid plaintiff, executor as aforeſaid, ſince his death, in this reſpect have not, nor hath either of them paid, &c. (although ſo to do the ſaid W. in his lifetime, and the ſaid R. ſince his death, and before her intermarriage with the ſaid P. and the ſaid P. and R. adminiſtratrix as aforeſaid, ſince their intermarriage were often requeſted by the ſaid E. in his lifetime, and the ſaid P. and R. ſince their intermarriage have been requeſted by the ſaid plaintiff ſince the death of the ſaid E. to wit, on, &c. and often afterwards, to wit, at, &c. aforeſaid), but they, or either of them, to pay the ſame or any part thereof, have and each of them hath hitherto wholly refuſed; and the ſaid P. and R. ſtill refuſe to the ſaid plaintiff, executor as aforeſaid, his damage of forty pounds, for which he brings his ſuit, &c.; and he alſo brings into court here, &c. (Profert of letters teſtamentary.)

Conclusion to declaration in *aſſumpſit* againſt an adminiſtratrix where huſband and wife are ſued.

Yet the ſaid A. (the inteſtate) in his lifetime, and the ſaid C. and B. his wife, adminiſtratrix as aforeſaid ſince his death, not regarding the ſaid ſeveral promiſes, &c. of the ſaid A. ſo by him made as aforeſaid, but contriving, &c. have not, nor hath either of them as yet paid the ſaid ſeveral ſums of money, or any part thereof, to the ſaid plaintiff, (although ſo to do the ſaid A. in his lifetime, to wit, on, &c. and the ſaid C. and B. his wife, adminiſtratrix as aforeſaid ſince his death, to wit, on, &c. and often afterwards were reſpectively requeſted by the ſaid plaintiff, to wit, at, &c. aforeſaid), but the ſaid A. in his lifetime, and the ſaid C. and B. his wife, adminiſtratrix as aforeſaid ſince his death, have and each

of

of them hath wholly refuſed, and the ſaid C. and B. his wife, adminiſtratrix as aforeſaid, ſtill refuſe ſo to do to the ſaid plaintiff his damages of, &c. ſuit, &c.

Beginning of a declaration againſt one partner for goods ſold, &c. where the other partner is outlawed, &c.

A. B. complains of C. D. being in the cuſtody, &c. in a plea of treſpaſs on the caſe, &c.; for that whereas the ſaid C. D. together with one E. F. late of, &c. partner with the ſaid C. D. (which ſaid E. F. was and is now in due manner outlawed in the court of our lord the king before his juſtices at Weſtminſter, [*the king himſelf at Weſtminſter*] on the day of A. D. to wit, at, &c. were indebted to the ſaid A. B. in pounds of lawful, &c. for divers goods, wares, and merchandizes by the ſaid A. B. before that time ſold and delivered to the ſaid C. D. and E. F. who, &c. at their ſpecial inſtance and requeſt, and being ſo indebted, they the ſaid C. D. and E. F. who, &c. in conſideration thereof, &c. undertook, &c. *Quantum meruit* accordingly.

Concluſion.

Yet the ſaid defendant and E. F. who, &c. before, and the ſaid defendant ſince the ſaid outlawry was had not regarding, &c. but contriving, &c. have not, nor hath either of them paid, &c. (although ſo to do the ſaid defendant and E. F. who, &c. before the ſaid outlawry was ſo had were, and each of them was often times requeſted, and the ſaid defendant ſince the ſaid outlawry was had hath been requeſted by the ſaid plaintiff, to wit, on, &c. and often afterwards, to wit, at, &c. aforeſaid), but they to pay the ſame or any part thereof to the ſaid plaintiff have and each of them hath hitherto wholly refuſed, and the ſaid defendant ſtill doth refuſe, to wit, at, &c. aforeſaid. Damages, ſuit, &c.

Beginning of a declaration at ſuit of A. and the ſurviving aſſignees of B. his partner, who became bankrupts after the action had accrued, and before commencement of ſuit.

MIDDLESEX, to wit: John Ewen, Thomas Bedford, and Samuel Thompſon, (which ſaid Thomas and Samuel are ſurviving aſſignees of the eſtate and effects of Richard Smith, a bankrupt, within the true intent and meaning of the ſeveral ſtatutes made and now in force concerning bankrupts, ſome or one of them) complain of Edward Hollis being in the cuſtody of, &c. in a plea of treſpaſs on the caſe, &c.; for that whereas the ſaid defendant before the ſaid R. Smith became a bankrupt as aforeſaid, to wit, on, &c. was indebted to the ſaid John and R. Smith in the ſum of fifty pounds of lawful, &c. for a certain quantity of coppice, under, and other wood, by the ſaid John and the ſaid Richard Smith before that time then before ſold to the ſaid defendant, and by him the ſaid defendant before that time, and there had, received, and taken according to the terms of the aforeſaid ſale thereof, and at his ſpecial inſtance and requeſt; and being ſo indebted, he the ſaid defendant in conſequence thereof, afterwards and before the ſaid Richard Smith became a bankrupt as aforeſaid, to wit, on, &c. &c. undertook and faithfully promiſed the ſaid John and Richard Smith to pay, &c. [As uſual then add counts for goods ſold,

ſold, &c. work and labour, &c. money had and received, and account ſtated.]

Yet the ſaid defendant not regarding, &c. but contriving, &c. to deceive and defraud, as well the ſaid John and Richard Smith, before the ſaid Richard Smith became ſuch bankrupt as aforeſaid, as alſo the ſaid John, Thomas, and Samuel, together with one deceaſed, (who in his lifetime, and at the time of his death was joint aſſignee with them the ſaid Thomas and Samuel of the eſtate and effects of the ſaid John Smith) ſince the ſaid Richard Smith became a bankrupt as aforeſaid in this behalf, hath not paid the ſaid ſeveral ſums of money, &c. either to the ſaid John and Richard Smith, or either of them, before the ſaid Richard Smith became ſuch bankrupt as aforeſaid, or to the ſaid Thomas, Samuel, and , deceaſed, or any, or either of them ſince the ſaid Richard Smith became ſuch bankrupt as aforeſaid, (although, &c. by, &c. before the ſaid Richard Smith became bankrupt as aforeſaid, to wit, on the day and year aforeſaid, and often afterwards, as alſo by the ſaid John, Thomas, and Samuel, and ſince the ſaid Richard Smith ſo became bankrupt, to wit, at, &c. aforeſaid), but he to pay the ſame or any part thereof hath hitherto wholly refuſed, and ſtill refuſes to pay the ſame to the ſaid John, Thomas, and Samuel, to the damage of the ſaid John, Thomas, and Samuel of fifty pounds, for which they bring their ſuit, &c. Pledges, &c.

Conclusion.

The requeſt.

A. B. complains of C. D. being in the cuſtody of the ſheriff of the county of , by virtue of a *latitat* iſſuing out of the court of our lord the king, before the king himſelf here at the ſuit of the ſaid A. B. and returnable before our ſaid lord the king at Weſtminſter, in a plea of, &c.

Beginning of declaration in B R. againſt a priſoner in the cuſtody of a ſheriff.

Vide 4. and 5. W. and M. ch. 21. and 1. Will. 119. Impey's Practice, 451.

A. B complains of C. D. being in the cuſtody of the marſhal of the Marſhalſea of our lord the now king, before the king himſelf, and G. H. being a priſoner in the cuſtody of H. T. eſquire, ſheriff of the county palatine of Lancaſter, by virtue of a writ of *latitat* iſſuing out of the court of our ſaid lord the king, before the king himſelf, here at the ſuit of the ſaid A. B. and returnable before our ſaid lord the king at Weſtminſter, on, &c. directed to the chancellor of the county palatine of Lancaſter, or to his deputy there, and by virtue of a writ and mandate of our ſaid lord the king, under the ſeal of the ſaid county palatine of Lancaſter, directed to the ſheriff of the ſaid county palatine of Lancaſter, at the ſuit of the ſaid A. B. of a plea of, &c.

Beginning of a declaration againſt one defendant, in B. R. the other in cuſtody of the ſheriff of the county palatine of Lancaſter.

Purſuant to ſtat. 4. and 5. W. and M. c. 21. ſ. 2 and 3. Vide the books of practice and the ſtatutes.

Eaſter Term, 22. Geo. III.

Declaration at ſuit of an adminiſtrator by power of attorney.

LONDON, to wit. James Miller, adminiſtrator of all and ſingular the goods, chattels, and credits which were of George Wiſhart, deceaſed, at the time of his death, who died inteſtate, for the uſe and benefit of John Wiſhart, George Wiſhart, the nephews, and Jane Wiſhart the niece, and only next of kin of George Wiſhart deceaſed, complains of Hobbe, otherwiſe Hobby, (who was ſerved with proceſs by the name of Hobby), being, &c. in a plea of treſpaſs on the caſe, &c.; for that whereas [&c. counts for money had and received, money lent, money laid out, and an account ſtated, &c. in the lifetime of the inteſtate],

Concluſion.

yet the ſaid defendant not regarding his ſaid ſeveral promiſes and undertakings ſo by him in manner and form as aforeſaid made, but contriving, &c. to deceive, &c. the ſaid inteſtate in his lifetime, and the ſaid plaintiff, (to whom as the lawful attorney of the ſaid John Wiſhart, George Wiſhart, and Jane Wiſhart, the next of kin of the ſaid (inteſtate), adminiſtration of all and ſingular the goods and chattels, rights and credits which were of the ſaid inteſtate deceaſed, for the uſe and benefit of the ſaid John Wiſhart, George Wiſhart, and Jane Wiſhart, his next of kin as aforeſaid by Frederick, by divine providence, &c. on the eleventh day of February, A. D. 1782, at London, &c. aforeſaid, in due form of law committed) after his death, hath not as yet paid the ſaid ſeveral ſums of money in the promiſes and undertakings reſpectively mentioned, or any, or either of them, or any part thereof, either to the ſaid inteſtate in his lifetime, or to the ſaid J. H. adminiſtrator as aforeſaid, or to the ſaid John Wiſhart, George Wiſhart, and Jane Wiſhart, the next of kin of the ſaid (inteſtate) or any, or either of them ſince his death, (although to pay the ſame he the ſaid defendant was requeſted by the ſaid (inteſtate) in his lifetime, to wit, on the aforeſaid day of , and often afterwards, to wit, at, &c. aforeſaid, and by the ſaid plaintiff, adminiſtrator as aforeſaid ſince the deceaſe of the ſaid inteſtate, to wit, on, &c. and often afterwards, to wit, at, &c. aforeſaid), but he to pay the ſame, or any part thereof, hath always wholly refuſed, and ſtill refuſes to pay the ſame, or any part thereof to the ſaid plaintiff, adminiſtrator in form aforeſaid to the ſaid plaintiff, as ſuch adminiſtrator as aforeſaid, his damages of one hundred pounds, for which he brings his ſuit, &c.; and he alſo brings into court here the letters of adminiſtration of the ſaid archbiſhop, bearing date the day and year aforeſaid in that behalf above mentioned, whereby the granting of the admiſtration aforeſaid to him the ſaid plaintiff is ſufficiently teſtified and ſhewn to the court here, &c. Pledges, &c.

Beginning of a declaration in *juſticies* in ſheriff's court.

——————to wit. C. D. by virtue of his majeſty's writ of *juſticies*, was attached to anſwer A. B. of a plea of treſpaſs upon the caſe to the damage of the ſaid A. B. of ten pounds, and the pledges to proſecute are John Doe and Richard Roe; and whereupon

upon the ſaid (plaintiff) by E. F. his attorney complains; for that whereas the ſaid defendant, on, &c. at, &c. and within the juriſdiction of this court was indebted, &c. Omit pledges.

WILLIAM WITTER, late of the pariſh of Saint Mary-le-bone, in the county of Middleſex, eſquire, was ſummoned to anſwer Iſaac Walker, Francis Newton, and John Colvill, aſſignees of the eſtate and effects of Samuel Bean, a bankrupt, within the true intent and meaning of the ſtatutes made and provided and now in force concerning bankrupts; and Collin Mackenzie, Thomas Bell, and Alexander Grant, aſſignees of the eſtate and effects of Lewis Cuthbert, a bankrupt, &c. that he render to them five hundred and ninety-four pounds eight ſhillings and fourpence of lawful money of Great Britain, which he owes to and unjuſtly detains from them; for that whereas the ſaid Samuel Lewis, and alſo one David Bean, ſince deceaſed, in the lifetime of the ſaid David, and which ſaid David afterwards and before the ſaid Samuel and Lewis became bankrupts died, and the ſaid Samuel and Lewis ſurvived him, to wit, at, &c. heretofore, to wit, on, &c. at, &c. [Go on with declaratory part.]

Beginning of a declaration in debt on a judgment in a foreign court by original in B.R. at ſuit of the ſeparate aſſignees of two partners, bankrupts, who ſurvived a third, who died before the bankruptcy of the other two.

And that neither the ſaid Samuel Lewis and David, or either of them, in the lifetime of the ſaid David, nor the ſaid Samuel Lewis, or either of them, ſince his deceaſe, nor the ſaid Iſaac, Francis, Collin, Thomas, and Alexander, as aſſignees as aforeſaid, or either of them, have obtained execution of the aforeſaid judgment, and the ſaid Iſaac, Francis, John, Collin, Thomas, and Alexander in fact ſay, that the debt, coſts, and charges aforeſaid recovered as aforeſaid, amount to a large ſum of money, to wit, to the ſum of one hundred and fifty-eight pounds eight ſhillings and ninepence of lawful money of Great Britain, that is to ſay, at Weſtminſter, in the ſaid county of Middleſex, whereby an action hath accrued to the ſaid Iſaac, Francis, John, Collin, and Alexander, to demand and have of and from the ſaid William the ſaid ſum of one hundred and fifty-eight pounds eight ſhillings and ninepence of like lawful money of Great Britain, parcel of the ſaid ſum of five hundred and ninety-four pounds eight ſhillings and fourpence above demanded.

Concluſion.

Vide Doug. Rep. fo. 1.

LANCASHIRE, to wit. John Leach, late of in the county of Lancaſter, yeoman, was attached to anſwer John Smith, and Mary his wife, which ſaid Mary is adminiſtratrix of all and ſingular the goods, chattels, and credits which were of Joſeph Smith at the time of his death, who died inteſtate, the late huſband of the ſaid Mary, in a plea of treſpaſs on the caſe, &c. and whereupon the ſaid John and Mary, the ſaid Mary being ſuch adminiſtratrix

Beginning and concluſion of a declaration in *aſſumpſit*, in C. P. at Lancaſter, at ſuit of huſband and wife, adminiſtratrix of her former huſband.

adminiſtratrix as aforeſaid, by Thomas Myers their attorney complain, that whereas, &c. [Go on with the declaratory part.]

Concluſion.

Yet the ſaid defendant not regarding his ſaid ſeveral promiſes and undertakings ſo by him made as aforeſaid, but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud, as well the ſaid James Smith in his lifetime, as the ſaid Mary, adminiſtratrix as aforeſaid after his deceaſe (to which the ſaid Mary before her intermarriage with the ſaid John, adminiſtration of all and ſingular the goods, chattels, and credits which were of the ſaid Joſeph Smith, deceaſed, at the time of his death was by on the day of in the year of Our Lord 1788, to wit, at Preſton aforeſaid, in the county aforeſaid, in due form of law committed), as alſo the ſaid John and Mary (as the ſaid Mary is adminiſtratrix in form aforeſaid, ſince their intermarriage in this behalf hath not as yet paid the ſaid ſeveral ſums of money in thoſe promiſes and undertakings, or any, or either of them, or any part thereof, either to the ſaid Joſeph Smith in his lifetime, or to the ſaid Mary, adminiſtratrix as aforeſaid ſince his death, before her intermarriage with the ſaid John, nor to the ſaid John and Mary, or either of them ſince their intermarriage, (although to pay the ſame the ſaid defendant was requeſted by the ſaid Joſeph Smith in his lifetime, to wit, on the day and year firſt above mentioned; and by the ſaid John and Mary, ſince the death of the ſaid Joſeph Smith, and ſince the intermarriage between the ſaid John and Mary, to wit, on the firſt day of February, in the year of Our Lord 1789, and often afterwards, to wit, at Preſton aforeſaid, in the county aforeſaid), but he to pay the ſame hath altogether refuſed, and ſtill refuſes to pay the ſame to the ſaid John and Mary, to the damage of the ſaid John and Mary, (as the ſaid Mary is ſuch adminiſtratrix as aforeſaid of fifty pounds), and therefore they bring their ſuit, &c.; and they bring into court here the letters of adminiſtration of the ſaid archbiſhop, which ſufficiently teſtify to the court here the granting of the adminiſtration aforeſaid to the ſaid Mary, the date whereof is the day and year in that behalf abovementioned.

Hilary Term, 26. Geo. III.

Præcipe for original in B. R. in caſe upon promiſes againſt a member of parliament and common perſon jointly.

LONDON, to wit. If Joſeph Clarke, Thomas Rigge, and John Crompton make you ſecure, &c. then put by ſureties and ſafe pledges Henry Cruger, late of London, eſquire, (he having privilege of parliament), Thomas Lediard, Thomas Mullet, late of London, merchants, that they be before us in fifteen days of Saint Hilary, wherefoever we ſhall then be in England, to ſhew; for that whereas, &c.

Trinity Term, 4. Geo. III.

Bill againſt a member of parliament in debt upon bond.

To the juſtices of the lord the king of the bench.

DORSETSHIRE, to wit. Grace Lambert, widow, by Michael Barber, her attorney, complains of Michael Hawey, eſq.

(the ſame Michael Hawey having privilege of parliament) in a plea that he render to her pounds of lawful money of Great Britain, which he owes to, and unjuſtly detains from her, &c. for that, to wit, that whereas the ſaid Michael Hawey on the third day of April, in the year of Our Lord 1767, at Sherborne, in the county aforeſaid, by his certain writing-obligatory, ſealed with his ſeal, acknowledged himſelf to be held and firmly bound to the ſaid Grace in the ſaid pounds, to be paid to the ſaid Grace whenever the ſaid M. H. ſhould be thereunto required; nevertheleſs the aforeſaid M. H. (although often required) hath not rendered to the ſaid Grace the ſaid pounds, but to render the ſame he hath hitherto altogether refuſed, and ſtill doth refuſe, whereupon the ſaid Grace ſaith ſhe is injured, and hath damages to twenty pounds; and therefore ſhe prays relief, &c. and thereupon the ſaid Grace alſo prays the proceſs of our lord the king, according to the form of the ſtatute in ſuch caſe made and provided; and the ſame may be therefore made out for her, and it is granted, &c.

Pledges, &c. { JOHN DOE, and RICHARD ROE.

Trinity Term, 8. Geo. III.

MIDDLESEX, to wit. A. B. by J. D. his attorney, complains of C. D. one, &c. [So on as in other declarations to the end], but there muſt be a memorandum in the iſſue and imparlance, if any be had. Proceedings againſt an attorney, in C. P.

In the Common Pleas at Weſtminſter.

Between { A. B. plaintiff, and C. D. one, &c. defendant.

TAKE notice, that a bill this preſent Hilary term is filed againſt you in Mr. Prothonotary Dickens's office, at ſuit of the plaintiff above named, in an action of debt upon bond to the damage of twenty pounds, and unleſs you appear thereto in four days a forejudger will be entered againſt you. Dated the day of 1767.

JOHN SHEPHARD, gentleman, is admitted to proſecute and defend for Thomas Slaughter, who is within the age of twenty-one years, all and all manner of actions, ſuits, and controverſies whereſoever in the court of the lor (the king before the king himſelf, as the next friend and guardian of the ſaid Thomas Slaughter during his minority. Admiſſion of *prochein ami*, in B. R.

Admitted tenth of May 1764, by me, J. DENNISON.

To John Aſhton, eſquire, Marſhall of the King's Bench.

Authority to the marſhal of the K. B. to diſcharge a priſoner out of cuſtody.

THESE are to deſire and authorize you to diſcharge out of your cuſtody the body of John Shore, eſquire, notwithſtanding any account, judgment, or execution he ſtands charged with you, at the ſuit of ; and for ſo doing this ſhall be your ſufficient warrant. Witneſs my hand this day of , 1749.

K. W. attorney for the plaintiff.

To Mr. P. P. and M. M. gentlemen, attornies of his majeſty's court of K. B. at Weſtminſter, jointly and ſeverally, or to any other attorney of the ſame court.

Warrant of an attorney to confeſs judgment in ejectment.

THESE are to deſire and authorize you the attornies above named, or either of you, or any other attorney of the ſaid court of king's bench at Weſtminſter, to appear for one John Harris, of New North ſtreet, &c. in the ſame county, as of laſt Hilary term, Eaſter term next, or of any other ſubſequent term, and then and there to receive a declaration for me in an action of treſpaſs and ejectment, at ſuit of John Doe, for two meſſuages, two cottages, two dwelling houſes, two orchards, two gardens, ten acres of land, ten acres of meadow, and ten acres of paſture ground, with the appurtenances, in the pariſh of Pilton, in the county of Somerſet, which Edward Parker, of Roll's Buildings, Fetter lane, London, upon the day of the date hereof at Pilton aforeſaid, did demiſe to the ſaid John Doe and his aſſigns for the term of ſeven years, to commence from the day next before the day of the date hereof, and thereupon to confeſs the ſame action, or elſe to ſuffer judgment by default, or otherwiſe to paſs therein, for the ſaid John Doe to recover againſt me his term yet to come of and in the ſaid meſſuages, cottages, or dwelling houſes, lands and tenements, with the appurtenances, and to be therein forthwith entered up upon record, and for your ſo doing this ſhall be to you, or either of you, or any other attornies as aforeſaid, yours, his, their, or any of them, ſufficient warrant; in witneſs whereof, I, the ſaid John Harris, have hereunto put my hand and ſeal the twenty-ninth day of February, in the year of Our Lord 1766.

J. HARRIS.

John Redding, attorney for J. Harris.

Sealed and delivered, being firſt duly ſtamped, } in the preſence of WILLIAM TALBOTT. }

ISSUES.

Eaſter Term, 35. Geo. III.

Iſſue in debt againſt two defendants, where one pleads *nul tiel record*, and the other lets judgment go by default with *unica taxatio*.

MIDDLESEX, to wit. T. C. and J. R. were ſummoned to anſwer C. B. in a plea, [Here ſet out the declaration to the end], and the ſaid T. C. in his own proper perſon comes and defends, &c. (to the end of the plea); and the ſaid C. B. as to the ſaid plea of, &c. (to the end of replication); and the ſaid J. R. in his own proper perſon comes and defends the wrong and injury when, &c. and ſays nothing in bar or preclusion to the ſaid action

of

of the ſaid C. B. by which the ſaid C. B. remains therein undefended againſt the ſaid J. R. wherefore the ſaid C. B. ought to recover againſt the ſaid J. R. his ſaid debt, and alſo his damages by reaſon of the detaining thereof, but becauſe it is unknown to the juſtices of our lord the king now here what damages the ſaid C. B. hath ſuſtained by reaſon of the detaining the ſaid debt, and becauſe it is alſo at preſent unknown to the ſaid juſtices here whether there be ſuch a record of the recovery againſt the ſaid T. C. remaining in the ſaid court of the bench aforeſaid, as the ſaid C. B. hath by his declaration above alledged, and becauſe it it neceſſary and convenient that there be but one taxation of damages in this ſuit, therefore let the giving of judgment in this behalf againſt the ſaid J. R. be ſtayed until the determination of the ſaid iſſue between the ſaid C B. and the ſaid T. C.

Drawn by MR. TIDD.

Eaſter Term, 7. Geo. III.

Iſſue and *mittimus* to the city of Cheſter.

BE it remembered, that of Hilary term laſt paſt before our lord the king at Weſtminſter came James Roughly, by Thomas Weſton his attorney, and brought into the court of the ſaid lord the king then there his certain bill againſt Mary Martin, being in the cuſtody of the ſheriff of Denbigh, by virtue of his majeſty's writ of *latitat* iſſued out of the court of our ſaid lord the king, before the king himſelf, at the ſuit of the ſaid J. R. directed to the ſheriff of the county of Denbigh, of a plea of treſpaſs on the caſe, and there are pledges for the proſecuting, to wit, John Doe and Richard Roe, which ſaid bill follows in theſe words, that is to ſay, city of Cheſter, to wit: John Roughly complains, &c. and now at this day, that is to ſay, on Wedneſday next after fifteen days from Eaſter day in this ſame term, until which day the ſaid Mary Martin had leave to imparl to the bill aforeſaid, and then to anſwer, &c. before the lord the king at Weſtminſter, come as well the ſaid John Roughly by his attorney aforeſaid, as the ſaid Mary Martin by John Leache her attorney, and the ſaid Mary Martin defends the wrong and injury when, &c. and ſays that ſhe did not take upon herſelf and promiſe in manner and form as the ſaid John Roughly above complains againſt her, and of this ſhe puts herſelf upon the country, and the ſaid John Roughly doth the ſame likewiſe; therefore let there be a jury made thereof, and becauſe the men of the city of Cheſter and county of the ſame city ought not nor have been uſed to come out of the ſame city and county of the ſame city to try an iſſue joined in the ſame city and county of the ſame city, let the record of the plaint aforeſaid be ſent to the chamberlain of our ſaid lord the king of his county palatine of Cheſter, or his deputy there, ſo that the ſaid chamberlain or his deputy there, by writ of our lord the king under the ſeal of our ſaid county palatine duly to be made out, do cauſe the record to be ſent to the mayor of the ſaid city of Cheſter, commanding the ſaid mayor, that for trying the iſſue aforeſaid, the ſaid mayor do command the ſheriffs

of the ſame city and county of the ſame city, that they cauſe to come before the ſaid mayor at a certain day and place by the ſaid mayor to be appointed after the ſaid record ſhall have been delivered to him, twelve free and lawful men of the city and county aforeſaid, each of whom having ten pounds a year at leaſt of lands, tenements, or rents, by whom the truth of the matter in queſtion may the better be known and inquired into, and who are in no wiſe a kin either to the ſaid John Roughly or the ſaid Mary Martin, to recognize and make a certain jury of the country between the ſaid plaintiff in the plea aforeſaid, becauſe as well the ſaid J. R. as the ſaid M. M. between whom the variance is, have put themſelves upon that jury, and when the verification and iſſue ſhall have been there made and tried, then the ſaid mayor ſhall ſend the record of the plaint aforeſaid, with every thing that in the court of our ſaid lord the king there hath been done to the ſaid chamberlain or his deputy, ſo that the ſaid chamberlain or his deputy may remit the ſaid record into the court of our ſaid lord the king, before the king himſelf here, at a certain day which the ſaid mayor ſhall appoint to the ſaid parties to hear judgment thereupon.

Between { JOHN ROUGHLY, plaintiff, and MARY MARTIN, defendant.

MR. LEACHE,

Notice. TAKE notice, that this cauſe will be tried at the portmote court to be holden for the city of Cheſter and county of the ſame city in the common hall of pleas there on Monday the ninth day of June next. Dated this twenty-ſeventh day of May 1768.

I. WELSTON, agent for the plaintiff.

Iſſue in a county palatine. THEREFORE let there be a jury made thereof, and becauſe the iſſue aforeſaid between the parties above joined ought to be tried by men of the county palatine of Lancaſter, that is to ſay, of the body of the ſame county where his ſaid majeſty's writ doth not run, and not elſewhere; therefore as to trying the iſſue aforeſaid between the parties above joined, let the record of the plaint aforeſaid be ſent to his majeſty's juſtices of the ſaid county of Lancaſter, ſo that the ſame juſtices by his majeſty's writ of that county duly to be made out, do command the ſheriff of the ſame county, that he cauſe twelve free and lawful men of the body of the ſaid county of Lancaſter to come before the ſaid juſtices at the next general ſeſſions of aſſize for the ſaid county after the ſaid record ſhall be delivered to them, each of whom having ten pounds a year at leaſt on lands, tenements, or rents, by whom the truth of the matter may the better be known and inquired into, and who are no wiſe related either to the ſaid A. or to the ſaid C. to recognize and make a jury of the country between the ſaid parties in the plea aforeſaid, becauſe as well the ſaid C. as the ſaid A. between whom the controverſy is, have put themſelves upon that jury; and when the verification and iſſue aforeſaid ſhall be there

jury;

made and tried, then the ſaid juſtices ſhall ſend the record of the plaint aforeſaid, together with every thing that ſhall be done thereupon before them in his ſaid majeſty's court there to our ſaid lord the king at Weſtminſter, at a certain day which the ſame juſtices of the ſaid county palatine ſhall appoint to the ſaid parties to be in the ſame court there to hear judgment thereupon, &c.

THEREFORE let a jury come thereupon before our lord the king at Weſtminſter on next after , who are in no wiſe related either to the ſaid A. B. or to the ſaid C. D. to recognize upon their oath the full truth of and concerning the premiſes, becauſe as well the ſaid C. D. as the ſaid A. B. between whom the matter in variance is, have put themſelves upon that jury, the ſame day is given to the ſaid parties to be there, &c. Iſſue in Middleſex.

AND of this he puts himſelf upon the country; and the ſaid A. B. doth ſo likewiſe; therefore the ſheriff is commanded, that he cauſe to come here twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c.; and this he prays may be inquired of by the country, &c. therefore, &c. Iſſue by the defendant.

AND the ſaid C. by A. B. his attorney, comes and defends the wrong and injury when, &c. and ſays nothing in bar or denial of the aforeſaid action of the ſaid A. whereby the ſaid A. remains therein undefended by the ſaid C. therefore it is conſidered that the ſaid A. ought to recover his damages againſt the ſaid C. by reaſon of the not performing the ſeveral promiſes and undertakings before mentioned, but becauſe *the court of our ſaid lord the king now here doth not know it is not known* what damages the ſaid A. hath in this behalf ſuſtained; therefore the ſaid ſheriff of the ſaid county is commanded that he diligently inquire by the oath of good and lawful men of his bailiwick, what damages the ſaid A. hath ſuſtained, as well by reaſon of the not performing the promiſes and undertakings aforeſaid, as for his coſts and charges laid out by him about his ſuit in this behalf: and that he make appear the inquiſition which he ſhall take thereof to the juſtices of our ſaid lord the king at Weſtminſter, on , under his ſeal, and the ſeals of thoſe by whoſe oath he ſhall take ſuch inquiſition, together with the king's writ to him thereupon directed, &c. *Nil dcit* in caſe on promiſes.

AND now at this day, that is to ſay, on next after , in this ſame term, until which day the ſaid T. P. had leave to imparl to the aforeſaid bill, and then anſwer the ſame as he ſhould be adviſed, come as well the ſaid J. D. by his ſaid attorney as the ſaid T. P. by R. S. his attorney, before our ſaid lord the king at Weſtminſter, and the ſaid T. P. defends the wrong and injury, when, &c. and ſaith that he is in no wiſe guilty of the treſpaſs above laid to his charge in manner and form as the ſaid J. D. hath above Form of an iſſue into the county palatine of Lancaſter, and imparlance.

above complained againſt him; and of this he puts himſelf upon the country; and the ſaid J. D. doth the like; therefore let a jury come thereupon; and becauſe the iſſue aforeſaid between the parties above joined ought to be tried by men of the county palatine of Lancaſter, that is to ſay, of the body of the ſame county, where his ſaid majeſty's writ doth not run, and not elſewhere; therefore as to trying the iſſue between the parties above joined let the record of the plaint aforeſaid be ſent to his majeſty's juſtices of the ſaid county palatine of Lancaſter, ſo that the ſame juſtices by his majeſty's writ of that county duly to be made out do command the ſame ſheriff of the ſame county, that he cauſe twelve free and lawful men of the body of the ſaid county palatine of L. to come before the ſaid juſtices at their next general ſeſſions of aſſize to be holden for the ſaid county after the ſaid records ſhall be delivered to them, each of whom to have ten pounds a-year at leaſt in lands, tenements, or rents, by whom the truth of the matter may the better be known and enquired into, and who are in no wiſe related either to the ſaid J. D. or to the ſaid T. P. to recognize and make a jury of the country between the ſaid parties in the plea aforeſaid, becauſe as well the ſaid T. P. as the ſaid J. D. between whom the controverſy is, have put themſelves upon that jury; and when the verification and the iſſue aforeſaid ſhall have been there made and tried, then the ſaid juſtices ſhall ſend the record of the plaint aforeſaid, together with every thing that ſhall be done thereupon before them in his ſaid majeſty's court there to our ſaid lord the king at Weſtminſter at a certain day which the ſame juſtices of the ſaid county palatine ſhall appoint to the ſame parties to be in the ſame court there to hear judgment thereupon, &c.

To make up an iſſue in C. B.

[In the ordinary proceedings in C. P. there is no memorandum (as there is in K. B.) but having put the prothonotary's name and the term at the top, you are to begin with the declaration, and go quite to the end of it, and then begin a new line with the iſſue part as follows:]

Did not promiſe.

And the aforeſaid C. by G. H. his attorney, comes and defends the wrong and injury, when, &c. and ſaith that he did not undertake and promiſe in manner and form as the ſaid A. hath above complained againſt him; and of this he puts himſelf upon the country; and the ſaid A. doth the like; therefore the ſheriff is commanded that he cauſe to come on twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c.

Not guilty in *tort.*

As above, till "and ſaith that" he is in nowiſe guilty of the premiſes above laid to him as the ſaid A. hath above complained againſt him; and of this he puts himſelf upon the country, &c. (as above.)

And

And ſaith that he is not guilty of the treſpaſs aforeſaid as the ſaid A. hath above complained againſt him, &c. (as before.) Not guilty in treſpaſs.

And ſaith that he is not guilty of the treſpaſs and aſſault aforeſaid as the ſaid A. hath above complained againſt him, &c. (as before.) Not guilty in aſſault.

And ſaith that he is not guilty of the treſpaſs and ejectment aforeſaid as the ſaid A. hath above complained againſt him, &c. (as above.) Not guilty in ejectment.

And ſaith that he doth not owe to the ſaid A. the aforeſaid pounds, or any part thereof, in manner and form as the ſaid A. hath above complained againſt him (as before.) *Nil debet.*

And ſaith that he ought not to be charged with the aforeſaid debt by virtue of the writing aforeſaid; becauſe he ſaith that the ſaid writing is not his deed, &c. of this, &c. *Non eſt factum.*

And ſaith that the writing aforeſaid is not the deed of the ſaid E. the teſtator; and of this, &c. By an executor.

Trinity Term, . Geo. III.

STAFFORDSHIRE, to wit. Be it remembered, that heretofore, that is to ſay, in the term of (*a*) laſt paſt, A. B. came before our lord the king at Weſtminſter by E. F. his attorney, and brought in the court of our ſaid lord the king then there his bill againſt C. D. being in the cuſtody of the marſhal of the Marſhalſea of our ſovereign lord the now king, before the king himſelf, in a plea of (*b*) ; and there are pledges for the proſecution thereof, to wit, John Doe and Richard Roe, which ſaid bill follows in theſe words, to wit, [go on with the declaration.] To make up an iſſue of a different term from the declaration.

(*a*) The term the declaration is of.

(*b*) As in the declaration.

[Then beginning a new line begin your imparlance thus:]

And now at this day, that is to ſay, (*a*) in this ſame term, until which day the ſaid C. D. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as he ſhould be adviſed, came as well the ſaid A. B. by his attorney as the ſaid C. D. by G. H. his attorney, before our ſaid lord the king at Weſtminſter, and the ſaid C. D. defends the *wrong and injury* (*b*) laid to his charge by the ſaid A. B. in his declaration aforeſaid, which he will be ready to defend when and where, and in ſuch manner as the court ſhall award. Imparlance.

(*a*) The firſt day of the term iſſue is joined.

(*b*) If in treſpaſs, aſſault, imprisonment, or ejectment, *force and injury.*

And ſaith that he did not (*a*) undertake and promiſe in manner and form as the ſaid A. B. hath above complained againſt him; and of this he puts himſelf upon the country; and the ſaid A. B. doth the like; therefore let a jury come before our lord the king at Weſtminſter (*a*) As the plea is.

minſter on (a) next after , and who are in no wiſe of kin either to the ſaid A. B. or to the ſaid C. D. to recognize on their oath the full truth of and concerning the premiſes, becauſe as well the ſaid (b) C. D. as the ſaid A. B. between whom the aforeſaid matter in variance is, have put themſelves upon that jury; the ſame day is given to the ſame parties there, &c.

(a) If the venue is laid in the country, then this return muſt be the laſt return of the term in which the iſſue is joined; but if the venue is in London, then the return day before the trial. (b) The perſon who firſt joined iſſue.

[To make up an iſſue of the ſame term of the declaration. If the iſſue is joined the ſame term the declaration is of, then you muſt enter it thus:]

(c) The firſt day of term.

STAFFORDSHIRE, to wit. Be it remembered, that on (c) next after , in this ſame term, A. B. comes before our lord the king at Weſtminſter by E. F. his attorney, and brings into the court of our ſaid lord the king now here his bill againſt C. D. being in the cuſtody of the marſhal of the Marſhalſea of our ſaid lord the king, before the ſaid lord the king in a plea of treſpaſs on the caſe, &c.; and there are pledges for the proſecution thereof, to wit, John Doe and Richard Roe; which ſaid bill follows in theſe words, to wit, Staffordſhire, to wit, [ſet out the declaration.]

[The memorandums of the ſame term with the declaration hath no imparlance, but after the declaration you enter the plea thus, beginning a new line:]

Plea.

And the ſaid C. D. by G. H. his attorney, comes and defends the wrong and injury, when, &c. (as before.)

Replication.

If the plaintiff (upon a replication or otherwiſe) takes iſſue on the defendant's pleading, then inſtead of "and of this, &c." ſay, "and this he prays may be enquired of by the country;" and the ſaid C. D. the defendant doth the like; therefore let a jury, &c. (as above, till) becauſe as well the ſaid A. B. the plaintiff, as the ſaid C. D. between whom the matter aforeſaid in variance is, have put themſelves upon that jury; the ſame day, &c.

[If there are two iſſues joined, as on *ſon aſſault demeſne*, &c. you muſt conclude the iſſue thus:]

Double iſſue.

Therefore as well to try the ſaid iſſue as the ſaid other iſſue above joined between the ſaid parties, let a jury come before, &c. (as laſt above.)

Iſſue into the portmote court of the city of Cheſter.

Therefore let a jury be made thereof, and becauſe the men of the ſaid city of Cheſter ought not, nor have been uſed to come out of the ſaid city of Cheſter and county of the ſame city to try any iſſue joined in the ſame city and county of the ſame city; therefore for the trying the iſſue aforeſaid between the parties above joined triable in the ſaid city of Cheſter in the county of the

the ſame city, let the record of the plaint aforeſaid be ſent to the chamberlain of the ſaid lord the king of his county palatine of Cheſter, or his deputy there, ſo that the ſaid chamberlain or his deputy there, by writ of the ſaid lord the king under the ſeal of the ſaid county palatine duly to be made out, do cauſe the record aforeſaid to be ſent to the mayor of the ſaid city of Cheſter, commanding the ſaid mayor, that for the trying the iſſue aforeſaid the ſaid mayor do command the ſheriffs of the ſaid city of Cheſter and county of the ſame city that they cauſe to come before the ſaid mayor at a certain day and place by the ſaid mayor to be appointed after the ſaid record ſhall have been delivered to him twelve free and lawful men of the body of the city aforeſaid and county of the ſame city, each of whom to have ten pounds per year at leaſt in lands, tenements, or rents, by whom the truth of the matter in queſtion may the better be known and enquired into, and who are in no wiſe related either to the ſaid T. the defendant or the ſaid H. the plaintiff, to recognize and make a jury of the country between the ſaid parties in the plea aforeſaid, becauſe as well the ſaid H. as the ſaid T. between whom the controverſy is, have put themſelves upon that jury; and when the verification and iſſue aforeſaid ſhall be there made and tried, then the ſaid mayor ſhall ſend the record of the plaint aforeſaid, together with every thing that in the court of the ſaid lord the king there hath been done to the ſaid chamberlain or his deputy, ſo that the ſaid chamberlain or his deputy may remit the ſaid record into the court of the ſaid lord the king before the king himſelf here at a certain day which the ſaid mayor ſhall appoint to the ſame parties to be in the ſame court here to hear judgment thereupon, &c.

Take notice of trial in this cauſe for the next portmote court to be held by adjournment on the day of , in the common hall of pleas in and for the city of Cheſter. Dated, &c.

CONTINUANCES.

[Venire entered on the roll, and to be entered immediately after the iſſue, beginning in the ſame line on which the iſſue ends.] At which day the ſaid parties come before our ſaid lord the king at Weſtminſter by their ſaid attornies, and the ſheriff of the ſaid county did not return the writ, nor did he do any thing thereupon; therefore as before let a jury thereupon come before our ſaid lord the king at Weſtminſter on next after , and who neither, &c. to recognize, &c. becauſe as well, &c; the ſame day is given to the ſaid parties there, &c.; at which day the ſaid parties come, &c. (and ſo continue it from term to term from that term in which the iſſue is joined to the term next preceding the trial of the cauſe.)

Poſtea, continuance by *non miſit breve*.

[If final judgment is not entered up till the term after that in which the *diſtringas* is returnable, then immediately after the end

end of the *poſtea* (*a*), and before the entry of the judgment you muſt go on in the ſame line as follows:]

(*a*) As above.

But becauſe the ſaid court of our ſaid lord the king now here is not informed of their judgment § to be given of and upon the premiſes, day is further given to the ſaid parties (*b*) to come before our ſaid lord the king at Weſtminſter until next after to hear their judgment thereof, becauſe the ſaid court of our ſaid lord the king now here is not yet adviſed thereof, &c.; at which day the ſaid parties (*c*) come before our ſaid lord the king at Weſtminſter by their ſaid attornies, and thereupon all and ſingular the premiſes being ſeen and fully underſtood by the court here, it is conſidered that the ſaid A. recover, &c. (to the end of the final judgment.)

(*b*) If by the *poſtea* the defendant is to have made defence at the aſſizes, then ſay day is given to the ſaid A. to come, &c.

(*c*) Here ſay, at which day the ſaid A. comes before our ſaid lord the King at Weſtminſter by his ſaid attorney.

[If the judgment is not given in the next term after that in which the *diſtringas* is returnable, the *poſtea* muſt be continued as above from term to term from the term in which the *diſtringas* is returnable to the term in which the judgment is given, and for that purpoſe you muſt begin the ſecond continuance thus (at mark §); at which day the ſaid parties came before our ſaid lord the king at Weſtminſter aforeſaid by their ſaid attornies; but becauſe the ſaid C. &c. (as above to this mark §, and repeat it as often as you are to continue the terms), and after the laſt continuance conclude thus: And therefore all and ſingular the premiſes being ſeen, &c. (as above), to the end.]

The above continuances will do alſo upon a demurrer.

Continuance, *poſtea*, and final judgment after trial.

AFTERWARDS the proceedings thereon are continued between the parties aforeſaid of the plea aforeſaid by the jury being returned between them before our lord the king at Weſtminſter until then next following, unleſs his majeſty's right truſty and well beloved William earl of Mansfield, his ſaid majeſty's chief juſtice aſſigned to hold pleas in his ſaid majeſty's court before the king himſelf ſhould firſt come for default of jurors *at Weſtminſter Hall, in the county of Middleſex aforeſaid*, [at Guildhall, London] on next after , according to the form of the ſtatute, &c.; at which day the ſaid J. H. comes before our ſaid lord the king at Weſtminſter by his ſaid attorney, and the aforeſaid chief juſtice, before whom, &c. now ſendeth here his record taken before him in theſe words, to wit, afterwards, that is to ſay, on the day and at the place within contained, before William earl of Mansfield, the chief juſtice within mentioned, *W. B. gentleman, being aſſociated unto the ſaid chief juſtice*, [there being aſſociated to him J. S. gentleman] according to the form of the ſtatute, &c. the within-named J. H. cometh by his attorney within mentioned, and the within-named J. S. although ſolemnly required, comes not, but maketh default; therefore let the jury whereof

Continuance on the roll of the iſſue.

whereof mention is within made be taken againſt him by default, and the jurors of that jury being drawn by ballot, according to the form of the ſtatute, &c. and called over, and come, and being elected, tried, and ſworn to ſpeak the truth of the matter within contained, ſay upon their oath that the ſaid J. S. did undertake and promiſe in manner and form as the ſaid J. H. hath within complained againſt him; and they aſſeſs the damages of the ſaid J. H. by reaſon of not performing the promiſes and undertakings within written, beſides his coſts and charges laid out by him about his ſuit in this behalf, to pounds, and for his ſaid coſts and charges to forty ſhillings; therefore it is conſidered that the ſaid J. H. recover againſt the ſaid J. S. his debt *and the damages by the jury aforeſaid in manner aforeſaid aſſeſſed, and alſo pounds* [the ſaid damages aſſeſſed by the ſaid jury in manner aforeſaid, and alſo pounds] for the increaſe of his ſaid coſts and charges adjudged by the court of our ſaid lord the king now here to the ſaid J. H. at his requeſt, which ſaid damages amount in the whole to pounds; and the ſaid J. S. in mercy, &c.; afterwards the proceedings thereon are continued, but the parties aforeſaid of the plea aforeſaid by the jury being reſpited between them before our lord the king at Weſtminſter until next after then next following, unleſs the king's juſtices aſſigned to take the aſſizes in the county of the ſame city ſhould firſt come on the day of at the Guildhall of the city of B. aforeſaid in the county of the ſaid city, according to the form of the ſtatute, &c. for default of the jurors, becauſe none of them came; *at which day the ſaid A. comes* (*a*) before our ſaid lord the king at Weſtminſter by his ſaid attorney, and the ſaid juſtices of aſſize before whom, &c. now ſend here the record taken before them in theſe words, to wit, afterwards, that is to ſay, [to the end of the *poſtea*, and then go on in the ſame line in the ſame line as follows]; therefore it is conſidered, &c.

If in debt.

Continuance if at the aſſizes.

(*a*) The entry is thus when the defendant is returned to have made default by the *poſtea*; but if he is returned to appear at the aſſizes, then ſay, *the ſaid parties come by their ſaid attornies.*

Hilary Term, 8. Geo. III.

AND the ſheriff of the ſaid county hath not ſent back the ſaid writ to him as aforeſaid directed, nor did he do any thing thereon; therefore as before the ſheriff of the county of Middleſex aforeſaid is commanded, that by the oath of twelve, &c. of his bailiwick he diligently enquire in the manner aforeſaid, and that he ſend the inquiſition which he ſhould take thereon to our lord the king at Weſtminſter on Monday next after under his ſeal and the ſeals of thoſe by whoſe oath he ſhall take ſuch inquiſition, together with the ſaid writ to him as above directed; the ſame day is given to the ſaid William at the ſame place, &c.; at which day before our lord the king at Weſtminſter the ſaid William comes by his attorney aforeſaid, and the ſheriff

Continuances by *non miſit breve*

ſheriff of Middleſex aforeſaid did not ſend back the ſaid writ to him as aforeſaid directed, nor did he do any thing thereupon; therefore as before the ſheriff of the ſaid county of Middleſex is commanded, that by the oath of twelve, &c. of his bailiwick he diligently enquire in the manner aforeſaid, and that he ſend back the inquiſition which he ſhall take thereon to our ſaid lord the king at Weſtminſter on Monday next after the octave of Saint Hilary under his ſeal and the ſeals of them by whoſe oath he ſhall take that inquiſition, together with the ſaid writ to him as above directed; the ſame day is given to the ſaid William at the ſame place, &c.; at which day before our lord the king at Weſtminſter the ſaid William comes by his attorney aforeſaid, and the ſheriff of Middleſex aforeſaid did not ſend back the ſaid writ to him as aforeſaid directed, nor did he do any thing thereupon; therefore as before the ſheriff of the ſaid county of Middleſex is commanded, that by the oath of twelve, &c. of his bailiwick he diligently enquire in manner aforeſaid, and that he ſend the inquiſition which he ſhall take thereon to our lord the king at Weſtminſter on Wedneſday in fifteen days of Eaſter, under his ſeal and the ſeals, &c. he ſhall take that inquiſition, together with the ſaid writ to him as above directed; the ſame day is given to the ſaid William at the ſame place, &c; at which day before our lord the king at Weſtminſter the ſaid William comes by his attorney aforeſaid, and the ſheriff of Middleſex aforeſaid did not ſend back the ſaid writ to him as aforeſaid directed, nor did he do any thing thereupon; therefore as before the ſheriff of the ſaid county of Middleſex is commanded, that by the oath of twelve, &c. he diligently enquire in the manner aforeſaid, and that he ſend the inquiſition which he ſhall take thereon to our lord the king at Weſtminſter on, &c. under his ſeal and the, &c. he ſhall take ſuch inquiſition, together with the ſaid writ to him directed; the ſame day is given to the ſaid William at the ſame place, &c.; at which day before our ſaid lord the king at Weſtminſter the ſaid William comes by his attorney aforeſaid, and the ſheriff of Middleſex did not ſend back the writ to him aforeſaid directed, nor did he do any thing thereupon; therefore as before the ſaid ſheriff of Middleſex is commanded, that by the oath of twelve, &c. he diligently, &c. and that he ſend the inquiſition which he ſhall take thereon to our lord the king at Weſtminſter on Monday under, &c. he ſhall take that inquiſition, together with the ſaid writ to him directed; the ſame day is given to the ſaid William at the ſame place, &c.; at which day before our lord the king at Weſtminſter the ſaid William comes by his attorney aforeſaid, and the ſheriff of Middleſex did not ſend back the ſaid writ, nor did he do any thing thereupon; therefore as before the ſheriff of the ſaid county of Middleſex is commanded, that by the oath of twelve, &c. he diligently enquire, &c. and that he ſend the inquiſition which he ſhall take thereon to our lord the king on, &c. under, &c. he ſhall take ſuch inquiſition, together with the king's writ to him thereon directed; the ſame

ſame day is given to the ſaid W. at the ſame place, &c. at which day the ſaid W. comes here before our ſaid lord the king at Weſtminſter by his ſaid attorney and the ſheriff, namely, J. T. eſq. and J. S. eſq. ſheriff of the ſaid county of Middleſex, now returneth here a certain inquiſition taken before him at G. in the ſaid county, the nineteenth day of May, in the tenth year, &c. by the grace, &c. on the oath of twelve, &c. by which it is found that the ſaid W. hath ſuſtained damages by reaſon of the not performing the ſeveral promiſes and undertakings aforeſaid, beſides his coſts and charges by him about his ſuit in this behalf laid out to twenty-nine ſhillings, and for thoſe coſts and charges to one pound; therefore it is conſidered, that the ſaid W. recover againſt the ſaid J. his damages found by the ſaid inquiſition; and alſo thirteen pounds ten ſhillings adjudged to the ſaid W. at his requeſt by the court of our ſaid lord the king now here for the increaſe of his ſaid coſts and charges, which ſaid damages amount in the whole to thirty-four pounds; and the ſaid J. in mercy, &c.

Judgment ſigned.

Mercy, &c.

A power of attorney for a perſon to act under a commiſſion of bankruptcy.

KNOW all men by theſe preſents, that J. E. of, &c. ſpinſter, one of the creditors of G. G. of, &c. maſter and chapman, againſt whom a commiſſion of bankruptcy, under the great ſeal of Great Britain hath been awarded and iſſued, have made, ordained, conſtituted, and appointed, and by theſe preſents do make, ordain, conſtitute, and appoint J. O. of, &c. my true and lawful attorney, for me, and in my name, place, and ſtead, to appear before the commiſſioners in and by the ſaid commiſſion named and authorized, or the major part of them at Guildhall, London, or elſewhere, at the days and times appointed in the London Gazette for the choice of aſſignees of the eſtate and effects of the ſaid G. G. and then and there for me, and in my name, to vote in the choice of one or more aſſignee or aſſignees of the ſaid bankrupt's eſtate and effects as my ſaid attorney ſhall think moſt fit and proper for the better management, getting in, and recovering of the ſaid bankrupt's eſtate and effects; and alſo for me, and in my name, and my act and deed, to ſign ſuch certificates as the commiſſioners ſhall make to the right honourable the lord high chancellor of Great Britain, purporting that the ſaid G. G. ſhall have conformed himſelf to the directions of the ſeveral acts of parliament now in force concerning bankrupts, and particulary the act made in the fifth year of his late majeſty's reign, intituled, "An Act to prevent the committing of Frauds by Bankrupts", and thereby ſignifying my conſent that the ſaid G. G. ſhall have the benefit of ſuch allowances as are given to ſuch bankrupts by the ſaid laſt-mentioned act; and alſo for me, and in my name, place, and ſtead, and to and for my uſe to aſk, demand, ſue for, and receive of and from the aſſignee or aſſignees of the ſaid bankrupt's eſtate and effects all ſuch dividend or dividends as the ſaid commiſſioners, or the major part of them ſhall from time to time, and at all times hereafter order to be made among the creditors of the

ſaid G. G. who ſhall have come in and ſought relief under the ſaid commiſſion, and be due, payable, and belonging to me for or on account of my debt or ſum of pounds by me proved under the ſaid commiſſion or any receipt thereof, for me, and in my name, to ſign, ſeal, execute, and deliver all and every ſuch good and ſufficient receipts, acquittances, releaſes, and diſcharges to the aſſignee or aſſignees as ſhall or may be lawful, fit, and convenient to be done, and generally to do all and every ſuch further and other lawful acts, deeds, matters, and things in the law, for the better executing and diſcharging the power and authority hereby given, as full and amply to all intents and purpoſes as I myſelf might or could do if perſonally preſent, hereby ratifying, allowing, and confirming all and whatſoever my ſaid attorney ſhall or lawfully may do, or cauſe to be done in and about the premiſes for the better managing the purpoſes aforeſaid by virtue of theſe preſents; in witneſs whereof I the ſaid E. H. have to theſe preſents ſet my hand and ſeal this day of one thouſand ſeven hundred and forty-ſeven. E. H.

Sealed, &c. { G. PEMBROKE, J. BENTLEY.

A ſuggeſtion after a declaration of the death of one of two defendants before plea pleaded.

AND now at this day, that is to ſay, Wedneſday next after fifteen days from the day of Eaſter in this ſame term, until which day the ſaid George Leigh and John Bradſhaw had leave to imparl to the ſaid bill of the ſaid Jeremiah, and then to anſwer, &c. before our lord the king at Weſtminſter, came here as well the ſaid Jeremiah by his attorney aforeſaid, as the ſaid John by Thomas Winchley his attorney, and the ſaid George Leigh doth not come, and hereupon the ſaid Jeremiah ſaith, that ſince the exhibiting the ſaid bill of the ſaid Jeremiah, to wit, on the ſeventh day of April, in the year of Our Lord 1768, at London aforeſaid, in the pariſh and ward aforeſaid, the ſaid George Leigh died, which the ſaid John does not deny, but confeſſes the ſame; therefore let there be no further proceſs or proceedings againſt the ſaid George Leigh; and the ſaid John defends the wrong and injury when, &c. and ſays, that he did not undertake and promiſe in manner and form as the ſaid Jeremiah hath above complained againſt him; and of this he puts himſelf upon the country; and the ſaid Jeremiah doth ſo likewiſe, &c. therefore, &c.

Suggeſtion to alter the *venire*.

[After the end of the iſſue proceed as follows]: BUT becauſe it is ſuggeſted, and appears to the court here, that the iſſue above joined between the ſaid parties cannot be fairly and impartially tried by jury of the ſaid town and county of the ſaid town of Kingſton upon Hull, therefore let a jury of the county of York, being the county next adjoining to the ſaid town and county of Kingſton upon Hull, thereupon come before our lord the king at Weſtminſter on next after by whom, &c. and who neither,

ther, &c. to recognize, &c. becauſe as well, &c. the ſame day is given to the parties at the ſame place.

Drawn by MR. TIDD.

Iſſue into county palatine of Cheſter, in K. B.

[After the end of the iſſue proceed as follows]: THEREFORE let there be a jury made thereof, and becauſe the men of the ſaid city of Cheſter and county of the ſaid city ought not, nor have been uſed to come out of the ſaid city to try any iſſue joined in the county of the ſame city; therefore for trying the iſſue aforeſaid triable in the ſaid city of Cheſter, let the record of the plaint aforeſaid be ſent to the chamberlain of our ſaid lord the king of his county palatine of Cheſter, or his deputy there, ſo that the ſaid chamberlain, or his deputy, by writ of our ſaid lord the king, under the ſeal of the county palatine duly to be made out, do cauſe the record aforeſaid to be ſent to the mayor of the ſaid city of Cheſter, commanding the ſaid mayor, that for trying the iſſue aforeſaid, the ſaid mayor do command the ſheriffs of the ſaid city that they cauſe to come before the ſaid mayor at a certain day and place by the ſaid mayor to be appointed, after the ſaid record ſhall have been delivered to him, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. and when the verification and iſſue aforeſaid ſhall be there made and tried, then the ſaid mayor ſhall ſend the record of the plaint aforeſaid, together with every thing that ſhall be done thereupon before him to the ſaid chamberlain or his deputy, ſo that the ſaid chamberlain or his deputy may remit the ſame into the court of our ſaid lord the king, before the king himſelf at Weſtminſter, at a certain day which the ſaid mayor ſhall appoint to the ſaid parties to be in the ſame court then to hear judgment thereon, &c.

Entry of *latitat*, &c. to ſave the ſtatute of limitations.

ENGLAND, to wit. As yet of Hilary term in, &c. our lord the king hath ſent to his ſheriff of Surry his writ cloſe in theſe words, that is to ſay, (copy *latitat verbatim*)—At which day before our lord the king comes the ſaid T. H. in his proper perſon, and the ſheriff of Surry, to wit, here returns that the ſaid J. S. is not found in his bailiwick, and that the ſaid J. S. does not come; therefore the ſheriff is commanded (as formerly he was commanded) that he take the ſaid J. S. and John Doe, if they ſhall be found in his bailiwick, and keep them ſafely, ſo that he may have their bodies before the ſaid lord the king at Weſtminſter, on Monday next after eight days of Saint Hilary, to anſwer to the ſaid J. F. of the plea aforeſaid; the ſame day is given to the ſaid J. F. at the ſame place, at which day before our ſaid lord the king at Weſtminſter comes the ſaid J. F. in his proper perſon, and the ſheriff hath not ſent the ſaid laſt-mentioned writ, nor hath he done any thing thereupon, and the ſaid J. S. doth not come; therefore the ſheriff is commanded, (as often as he was before commanded) that he take the ſaid J. S. and John Doe, if they ſhall be found in his bailiwick, and keep them ſafe, ſo that he may have their bodies

Return by ſheriff of *non eſt inventus*.

Alias latitat.

Continuances by *vicecomes non miſit breve.*

Pluries latitat.

before the ſaid lord the king at Weſtminſter, on Monday next after eight days of the Purification, to anſwer the ſaid J. F. of the plea aforeſaid; the ſame day is given to the ſaid J. F. at the ſame place. *Drawn by* MR. TIDD.

The entry muſt be made on a roll which ſhould be carried in and docketted, and a copy of it made to be produced in evidence at the trial.

Suggeſtion of the death of one of the defendants, after rejoinder, and before ſurrejoinder.

AND now at this day, that is to ſay, next after until which day the ſaid Thomas (plaintiff had leave to imparl to the ſaid plea of the ſaid Thomas Fogg and William, by them by way of rejoinder above pleaded, and then to anſwer, &c. before our lord the king at Weſtminſter, came here as well the ſaid Thomas Farrimond, by his ſaid attorney, as the ſaid Thomas Fogg, by his ſaid attorney, and the ſaid William Carliſle doth not come, and hereupon the ſaid Thomas Farrimond ſuggeſts to the court here, that ſince the pleading of the ſaid plea of the ſaid Thomas Fogg and William, by them by way of rejoinder above pleaded, to wit, on the day of in the year of Our Lord, 1794, at aforeſaid, the ſaid William Carliſle died, which the ſaid Thomas Fogg confeſſes to be true; therefore let there be no further proceedings againſt the ſaid William Carliſle, and as to the ſaid plea by way of rejoinder above pleaded, and whereof the ſaid Thomas Fogg hath above put himſelf upon the country; the ſaid Thomas Farrimond doth ſo likewiſe, &c.

King's Bench, Hilary Term, 32. Geo. III.

THE KING *againſt* THOMAS PELLATT. } ENGLAND. Interrogatories exhibited in the court of our lord the king, before the king himſelf at Weſtminſter, againſt Thomas Pellatt, for a contempt of the ſaid court:

First interrogatory. Are you, or are you not, and when did you become an attorney of this honourable court, or an attorney or ſolicitor of any, or either, and which other of the courts of law or equity of our lord the king of record, and was you, or was you not, ſuch attorney or ſolicitor before, and upon and at all times ſince the firſt day of October, one thouſand ſeven hundred and ninety-one:

Second interrogatory. Was William Jefferys, of Chatham, in the county of Kent, againſt whom together with yourſelf the writ of attachment of this honourable court has iſſued, at any time, and when admitted to act as an attorney of this honourable court, or as an attorney or ſolicitor of any other court of law or equity; if yea, when and where, by and before whom was the ſaid William Jefferys ſo examined, ſworn, or admitted, ſet forth according to the beſt of your knowledge, information, remembrance, and belief, and herein fully and at large declare:

Third interrogatory. Did, or did not, the ſaid William Jefferys in the laſt interrogatory named, at or about the firſt day of October, one thouſand ſeven hundred and ninety-one, or at any other and what time appear to be, or act or practiſe in any reſpect as an attorney

attorney or ſolicitor; and did you, or did you not, at the time laſt above mentioned, or at any other and what time, and in any and what way, permit and ſuffer your name as being an attorney of this honourable court, or as being an attorney or ſolicitor of any and what other court of law or equity, to be made uſe of by or upon the account, or for the uſe or profit of the ſaid William Jefferys, and was the ſame in anywiſe ſo uſed by the ſaid William Jefferys; and did you, or did you not, on or about the firſt day of October, one thouſand ſeven hundred and ninety-one, or at any other and what time ſend any proceſs iſſuing out of this honourable court to the ſaid William Jefferys, thereby to enable him to appear, act, or practiſe as an attorney or ſolicitor; and more eſpecially did you, or did you not, at or about the time laſt above mentioned, or at any other and what time ſend to the ſaid William Jefferys a certain writ of *latitat* iſſuing out of and under the ſeal of this honourable court againſt one Chriſtopher Fiſher, at the ſuit of one Samuel Sherwood, teſted the thirtieth day of July laſt, and returnable the ſeventh day of November laſt, or any other and what writ of *latitat*, or any other proceſs iſſuing out of, or under the ſeal of this honourable court, or of any other and what court againſt the ſaid Chriſtopher Fiſher, at the ſuit of the ſaid Samuel Sherwood, and if yea, did you, or did you not, know that the ſaid William Jefferys was not duly qualified to appear, act, or practiſe as an attorney or ſolicitor at the time when you ſo ſent to him the ſaid *latitat* or proceſs, ſet forth according to the beſt of your knowledge, information, remembrance, and belief, and herein fully and at large declare: Did you, or did you not, after the commencement of the ſaid ſuit in the laſt interrogatory mentioned, make out and ſend to the ſaid William Jefferys a paper writing, dated the firſt day of October, one thouſand ſeven hundred and ninety-one, purporting to be an account of the debt and coſts in the ſaid action to the effect following, to wit, P. S. ſhould Fiſher be inclined to ſettle you, have account of debt and coſts on the other ſheet, inſerting the charge for ſervice of writ according to diſtance, and adding your own charge, and have added an authority for you to receive it for me, Sherwood and Fiſher; warrant and inſtructions to ſue, four ſhillings and fourpence; *latitat*, twelve ſhillings and ſixpence; copy and ſervice, five ſhillings; accommodation fee, ſix ſhillings and eightpence; letters, &c. two ſhillings; coſts, one pound ten ſhillings and ſixpence; debt, ſeven pounds nine ſhillings and ſixpence—nine pounds. Mr. Jefferys, I do hereby authorize and impower you to receive the debt and coſts in the above action for my uſe, T. Pellatt; plaintiff's attorney, the firſt of December 1791; Mr. Jefferys, Fair-row, Chatham; William Smith, clerk to Mr. Abbot, or to what other effect was the ſaid writing; and in that paper writing were not the words, and "adding your own charge," ſtruck out of the ſame with your privity, after the ſame had been ſent and delivered to the ſaid William Jefferys, and when and for what true reaſon herein fully declare: Did you receive

Fourth interrogatory.

Fifth interrogatory.

ceive any inſtructions for iſſuing and ſending to the ſaid William Jefferys the writ in the third interrogatory mentioned, and from whom and in what manner were the ſame received by you, whether by parol or in writing, and if in writing, what are the contents of ſuch writing ſet forth, and declare to the beſt of your knowledge, recollection, or belief: Did the ſaid William Jefferys at any time and when make any overture, propoſal, or application to you in perſon, or by letter, or letters, and if by letter, where are or is thoſe letters, or how otherwiſe for your leave, permiſſion, or conſent, to ſolicit, negociate, or tranſact, or to cauſe or procure to be ſolicited, negociated, or tranſacted, any and what kind of buſineſs in or under the ſanction, cover, or protection of your name, and what was the nature, tenor, effect, and true meaning of ſuch propoſals, and what was the inducement, conſideration, or promiſe offered, ſuggeſted, or inſinuated, by or on the behalf of the ſaid William Jefferys, to or for you to yield or give ſuch leave, permiſſion, or conſent, and did you thereupon, or at any other and what time in particular, in conſideration of ſuch inducement or promiſe, ſuggeſtion or inſinuation, or from what other inducement or promiſe, ſuggeſtion or inſinuation, give any ſuch or what conſent, leave, or permiſſion, as and for the purpoſes aforeſaid, or for what other purpoſe, or to what other extent, declare herein fully to the beſt of your recollection, knowledge, or belief: Did, or did not, the ſaid William Jefferys at ſome and what time, in particular inform you that he was not an attorney at law, but wiſhed or intended to become one, and requeſt or propoſe to you to act as an attorney at law or ſolicitor, or which in all ſuch ſuits at law or in equity, or which as he ſhould be employed in and ſhould recommend to be ſued and proſecuted in your name until he the ſaid William Jefferys ſhould be admitted an attorney at law; and did, or did you not, aſſent and agree in ſubſtance and effect, or how otherwiſe, to and with ſuch propoſal and requeſt; and was it, or was it not, agreed or underſtood between you and the ſaid William Jefferys at the time when the ſame propoſal and requeſt were made and aſſented to as aforeſaid, or at any other and what time in particular, that as a conſideration or inducement for ſuch aſſent and agreement on your part to ſuch propoſal, you ſhould be employed as the agent, or how otherwiſe, for the ſaid William Jefferys when he ſhould be admitted an attorney at law, ſet forth and declare to the beſt of your knowledge, recollection, or belief: Since ſuch requeſt and propoſal, by or on the behalf of the ſaid William Jefferys as is particularly mentioned and interrogated to in the laſt interrogatory, has, or has not, your name been made uſe of with your privity and conſent, at any and what time, or times in particular, in any and what ſuit or ſuits in particular at law or in equity, by the ſolicitation, procuration, or intervention of the ſaid William Jefferys: Did you perſonally know the plaintiff or plaintiffs, defendant or defendants, or any and which of them in the ſaid ſuits in which your name was uſed as the attorney therein as aforeſaid, when

Sixth interrogatory.

Seventh interrogatory.

Eighth interrogatory.

when ſuch ſuits or any of them were inſtituted; and was you not firſt made acquainted with all, or which of them, through the introduction of the ſaid William Jefferys; and in particular was you not applied to by the ſaid William Jefferys to ſue out a bailable writ of *latitat* for one Jacob Cazeneuve Troy, againſt one John Barney, whereupon the ſaid John Barney might be held to bail for a ſum of money to a bailable amount; and did you not accordingly ſue out ſuch bailable *latitat* and ſend the ſame to the ſaid William Jefferys to get the ſame executed; and did he not procure the ſame to be executed, and receive your coſts as attorney in the ſaid ſuit for the ſame with your privity; and did you at any time before, or at or after the ſaid writ was ſued out and the ſaid arreſt made, till the ſaid coſts were paid, perſonally know the ſaid Jacob Cazeneuve Troy, or where he reſided, or have you any and what reaſon to believe that he had, during the time aforeſaid, any perſonal knowledge of you, or meant or intended to employ you as his attorney in the ſaid cauſe; and did you not then know, or had you not reaſon to believe, that the ſaid Jacob Cazeneuve Troy, at the time of his authorizing the ſaid ſuit to be inſtituted, and till the ſame was ended, conſidered, and believed, the ſaid William Jefferys to be the attorney in the ſaid ſuit; and have you any and what reaſon to believe that you ſhould have been applied to and employed by all or any of the ſaid plaintiffs or defendants to become or act as their attorney in ſuch ſuits, or any of them, if you had not been applied to for that purpoſe by the ſaid William Jefferys, ſet forth according to the beſt of your recollection, information, knowledge, and belief: Is it your conſtant or uſual practice as attorney at law, when you have as ſuch attorney at law ſued out proceſs from any of his majeſty's courts of record at Weſtminſter, in any action or ſuit therein inſtituted againſt any perſon or perſons reſiding in the country at a diſtance from the ſame, and where it is neceſſary or uſual with you to employ agents in the country to act for you in any act or proceeding in the ſaid ſuit to employ as ſuch agent's attorneys at law, or to employ other perſons therein who you know not to be attornies at law, declare to the beſt of your knowledge, recollection, or belief: Set forth particularly, according to the beſt of your knowledge, recollection, or belief, the number of cauſes in which your name has been uſed as attorney at law, and the names thereof, and particularly of the parties for whom you appear therein to have acted as attorney, by or under the ſolicitation, procuration, recommendation, introduction, agency, or intervention of the ſaid William Jefferys; and the particular bills of coſts and charges which you have made out and received in each particular cauſe, and when and by whom paid, and when and in what manner received, and whether paid to you or to any, and what other perſons or perſon to your uſe, and particularly ſuch ſum and ſums of money as have been paid to you by or on account of the ſaid William Jefferys, for or on account of the coſts in all or any of the ſaid cauſes or ſuits, and ſuch ſums, allowance, or payments made by you to him, or by him deducted or retained to his uſe with your

Ninth Interrogatory.

Tenth interrogatory.

privity for or on account of any, and what thing done by him, in, about, or concerning all or any of the ſaid cauſes or ſuits ſet forth, according to the beſt of your knowledge, information, recollection, and belief, and herein fully and at large declare.

W. GARROW.

King's Bench, Hilary Term, 32. Geo. III.

(a) Examination and anſwer to interrogatories exhibited againſt an attorney for malpractice, for practiſing without a licence in another perſon's name, *tiel* being admitted.

THE KING *againſt* WM. JEFFERYS. } ENGLAND. The examination and anſwer of William Jefferys to certain interrogatories exhibited againſt him in his majeſty's court of king's bench at Weſtminſter for a contempt ſuppoſed to be by him committed againſt the ſaid court. To the firſt interrogatory this examinant anſwereth and ſaith, that he this examinant was never before any perſon whatſoever examined, ſworn, and admitted to act as an attorney or ſolicitor in any court of law or equity: This examinant did not ever aſſume, or appear to be, or act or practice as or in the office or buſineſs of an attorney or ſolicitor, otherwiſe than as an articled clerk to James Read, attorney at law, herein after mentioned, either alone, or in conjunction with, or by the aſſiſtance or connivance of any ſworn attorney or ſolicitor whatſoever, otherwiſe than by this examinant's incautiouſly publiſhing cards hereinafter mentioned: This examinant denies that he this examinant did ever ſo act or practice in conjunction with or by the aſſiſtance or connivance of Thomas Pellatt, againſt whom together with this examinant the attachment of this honourable court has iſſued, and which ſaid Thomas Pellatt is admitted an attorney of this honourable court, as he this examinant has been informed, and verily believes. To the ſecond interrogatory this examinant anſwereth and ſaith, that he this examinant did ſome time in or about the month of March 1791, at the requeſt and by and with the permiſſion of James Read, then an attorney of this honourable court, as this examinant verily believes, and to whom he this examinant was then an articled clerk, live and reſide in a certain meſſuage or dwelling-houſe, with the appurtenances, in the town of Chatham, in the county of Kent, in a certain ſtreet or row there, called or known by the name or deſcription of Fair Row, and which the ſaid James Read held as tenant to one Guy, the owner thereof, and for about ſeven months previous to the ſaid time had let out ſeveral rooms thereof to perſons at low rents, reſerving the offices in the ſaid houſe for the purpoſe of conducting his buſineſs there; and this examinant did live and reſide in ſuch ſaid meſſuage or dwelling-houſe at the requeſt of the ſaid James Read, in order that he this examinant might be enabled to anſwer the enquiries of the clients of the ſaid James Read, and to conduct the buſineſs of the ſaid James Read there as his clerk, and for which ſaid meſſuage or dwelling-houſe the ſaid James Read did then and has ſince paid the rent, as the ſaid James Read informed

(a) The interrogatories are framed upon the ſubject of the anſwers in the manner of the preceding form—which will anſwer for almoſt all the common inſtances for mal-practice—the interrogatories being too long for inſertion.

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this examinant: This examinant poſitively denies that he this examinant did ever inſinuate, give out, or pretend, or cauſe, or procure to be given out, inſinuated, or pretended that he this examinant had become the ſucceſſor to the ſaid James Read in the ſaid buſineſs or profeſſion of an attorney: That in or about the month of March 1791, the ſaid James Read being indebted to this examinant in a ſum of money which the ſaid James Read, as this examinant believes, was unable to pay, as from repeated applications to the ſaid James Read this examinant could not obtain the ſame, did give leave and permiſſion to this examinant to prepare and execute ſuch conveyancing buſineſs as the particular freinds of this examinant ſhould call upon him to do, and for this examinant to receive the profits thereof in or towards ſatisfaction of ſuch money ſo owing to this examinant as aforeſaid; and in conſequence of ſuch permiſſion he this examinant did incautiouſly, and without the knowledge of the ſaid James Read, cauſe ſome cards to be printed to the following effect, "that is to ſay," Mr. Jefferys, attorney at law, Fair Row, Chatham;" and this examinant did give a few of ſuch cards to ſome of this examinant's particular friends, but on the ſaid James Read's informing this examinant that he this examinant had done wrong, he this examinant diſcontinued to deliver any more: The reaſon why he this examinant ſtyled himſelf upon ſuch cards attorney at law was, that the preparing and executing conveyances was in general underſtood by this examinants friends and the inhabitants in general to be the buſineſs of an attorney only, and that he this examinant might not be conſidered as diſqualified to tranſact ſuch conveyancing buſineſs; but notwithſtanding which this examinant ſtill continued to tranſact the buſineſs and affairs of the ſaid James Read as his clerk, until the expiration of this examinant's clerkſhip: That ſome time in or about the month of March 1791, the name of the ſaid James Read was eraſed from the door of the houſe in conſequence of the ſaid houſe being new painted, and that ſoon after the name of "Jefferys" only was placed upon the door thereof; but this examinant did not order this examinant's ſaid name to be placed thereon, as the ſucceſſor of the ſaid James Read: This examinant did deliver to a few of this examinant's particular friends in or about the town of Chatham a few of the ſaid printed cards, and no other printed or written cards, letters, or hand-bills whatſoever, alledging, intimating, ſuggeſting, or inſinuating that this examinant has become, or was qualified, or enabled to practice as an attorney or ſolicitor: This examinant does not recollect that he this examinant did deliver ſuch printed card to the ſaid Samuel Sherwood, but admits that the ſame might poſſibly come to his knowledge: This examinant was ſome time, in or about the month of June 1791, applied to by the ſaid Samuel Sherwood to become or be employed by or for him in or about the recovery of a certain ſum of money due to him from one Chriſtopher Fiſher, and this examinant did thereupon undertake at the requeſt of the ſaid Samuel Sherwood to write a letter to the ſaid Chriſtopher Fiſher,

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requeſting payment of the ſaid debt: This examinant believes that he this examinant might in the courſe of the converſation which took place inform the ſaid Thomas Sherwood that he this examinant had done buſineſs for the ſaid Mr. Troy and other gentlemen in Chatham aforeſaid, but not as an attorney; that afterwards the ſaid Samuel Sherwood informed this examinant that the ſaid Chriſtopher Fiſher had not paid the debt agreeable to the requeſt of the ſaid letter, the ſaid Samuel Sherwood thereupon requeſted this examinant to commence an action againſt Fiſher for the recovery of the debt; and this examinant thereupon informed the ſaid Samuel Sherwood that it was not in this examinant's power to bring any action, he this examinant not being an attorney; and this examinant did alſo inform the ſaid Samuel Sherwood that this examinant had a friend (Mr. Pellatt), an attorney in London, to whom he this examinant would recommend the ſaid Samuel Sherwood as an attorney, to bring an action againſt the ſaid Chriſtopher Fiſher, and if the ſaid Samuel Sherwood would ſign an authority to Mr. Pellatt for that purpoſe, he this examinant would prepare one, which this examinant accordingly did a few days afterwards, at the requeſt of the ſaid Samuel Sherwood, which the ſaid Samuel Sherwood did then read and ſign; and this examinant did then, at the requeſt of the ſaid Samuel Sherwood, ſend the ſame to the ſaid Mr. Pellatt: This examinant did not produce to the ſaid Samuel Sherwood for his ſignature any paper writing prepared by this examinant or any other perſon whatſoever, purporting to be a warrant or authority for this examinant to ſue or be employed in recovering from the ſaid Chriſtopher Fiſher the money ſo due to the ſaid Samuel Sherwood as aforeſaid, or to ſecure to this examinant ſuch coſts and expences as might be incurred upon that occaſion, nor did the ſaid Samuel Sherwood ſign and deliver to this examinant any other paper writing whatſoever, ſave and except the ſaid paper writing purporting to be an authority for the ſaid Thomas Pellatt to bring the ſaid action againſt the ſaid Chriſtopher Fiſher: This examinant did accordingly ſend the ſaid warrant to the ſaid Thomas Pellatt, and informed him that if he would ſend a writ agreeable to ſuch warrant, he this examinant would ſerve the ſame; and on or about the ſecond day of October 1791, this examinant did receive from the ſaid Thomas Pellatt a letter encloſing a writ of *latitat* under the ſeal of this honourable court againſt the ſaid Chriſtopher Fiſher, at the ſuit of the ſaid Samuel Sherwood, for the purpoſe of recovering and compelling payment of the ſaid money ſo due as aforeſaid; the ſaid Thomas Pellatt at the time of his ſuing out and ſending ſuch writ did not know the ſaid Samuel Sherwood, to the beſt of this examinant's knowledge and belief: This examinant at the time of ſending the ſaid warrant and of receiving the ſaid writ from the ſaid Thomas Pellatt was clerk to, and in the ſervice of the ſaid James Read; the ſaid Thomas Pellatt ſent the ſaid writ to this examinant for the purpoſe of ſerving a copy of the ſame on the ſaid C. Fiſher; the ſaid J. Read did not at

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that time know that ſuch writ was ordered by or ſent to this examinant, or of the purpoſe for which ſuch writ was ſent, as this examinant verily believes; the ſaid Thomas Pellatt was not employed by or on behalf of the ſaid James Read as his agent in London, in and about the doing and tranſacting, or aſſiſting in the buſineſs of the ſaid James Read as an attorney at law, at the time of ſending the ſaid warrant and receiving the ſaid writ from the ſaid Thomas Pellatt, to the beſt of this examinant's knowledge and belief; but the ſaid Thomas Pellatt had ſome time previous thereto been ſuch agent to the ſaid James Read, but had then declined, as this examinant had been informed and believes: This examinant did deliver and ſerve upon the ſaid Chriſtopher Fiſher a printed copy of the ſaid writ of *latitat* filled up in this examinant's own hand-writing, and purporting to be a copy of the ſaid writ of *latitat* againſt him the ſaid Chriſtopher Fiſher at the ſuit of the ſaid S. Sherwood; that ſometime on or about the time when he this examinant ſo ſerved the copy of the ſaid writ of *latitat* on the ſaid Chriſtopher Fiſher, he this examinant informed the ſaid Samuel Sherwood of the receipt and ſervice thereof, and that the ſaid Thomas Pellatt had ſent an account of the debt and coſts in ſuch action, and had thereby authorized this examinant to receive the ſame for the uſe of the ſaid Thomas Pellatt, provided the ſaid Chriſtopher Fiſher ſhould apply and be willing to pay the ſame; this examinant believes that the ſaid Chriſtopher Fiſher did call upon and apply to the ſaid S. Sherwood to ſettle, accommodate, and end the ſaid action and ſuit, and that the ſaid Chriſtopher Fiſher was referred to this examinant by the ſaid Samuel Sherwood, as being authorized by the ſaid Thomas Pellatt to receive the debt and coſts for the uſe of the ſaid Thomas Pellatt: This examinant doth not recollect that the ſaid Chriſtopher Fiſher did inform this examinant that he had made ſuch application to the ſaid Samuel Sherwood, and that he had been referred to this examinant for the purpoſe aforeſaid: This examinant ſaith that the ſaid Chriſtopher Fiſher did apply to this examinant to know the amount of the debt and coſts, and this examinant did then produce to the ſaid Chriſtopher Fiſher the letter this examinant received from the ſaid Thomas Pellatt enclofing the ſaid writ of *latitat*, and pointing out to the ſaid Chriſtopher Fiſher the ſaid Thomas Pellatt as the attorney in the cauſe, and his reſidence as indorſed on the back of the writ, as this examinant had alſo done on the ſervice of the copy of the ſaid writ, and in which letter was written a bill of the debt and coſts in the hand writing of the ſaid Thomas Pellatt, with an authority for this examinant to receive the ſame for the uſe of the ſaid Thomas Pellatt; and this examinant did then inform the ſaid Chriſtopher Fiſher that this examinant was not employed as the attorney in the ſaid cauſe; but that he this examinant would receive the ſaid debt and coſts agreeable to the authority of the ſaid Thomas Pellatt, or that the ſaid Chriſtopher Fiſher might pay the ſame to the ſaid Thomas Pellatt in London; the ſaid bill of coſts was not made

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out in the hand-writing or in the name of this examinant, except filling up a blank with the ſum of five ſhillings, and the total amount of the bill: This examinant ſays, that the items in the ſaid bill were, warrant and inſtructions to ſue, four ſhillings and fourpence; *latitat*, twelve ſhillings and ſixpence; copy and ſervice, five ſhillings; accommodation fee, ſix ſhillings and eightpence; letters, two ſhillings, amounting in the whole to the ſum of one pound ten ſhillings and ſixpence: This examinant alſo ſays, that the whole of ſuch items charged in the ſaid bill or account were not, nor was any or either of them meant or intended to be received by this examinant, to or for this examinant's own proper uſe, and that the whole of the ſaid coſts mentioned in the ſaid bill was meant and intended to be received for the ſole uſe of the ſaid Thomas Pellatt: This examinant did inform the ſaid Chriſtopher Fiſher that the amount of the ſaid debt was ſeven pounds nine ſhillings and ſixpence, and that the debt and coſts together came to nine pounds, as mentioned in ſuch bill; this examinant did then inform the ſaid Chriſtopher Fiſher that he this examinant did then expect to be paid the ſum of three ſhillings and ſixpence for this examinant's application to the ſaid Chriſtopher Fiſher, requeſting the payment of the ſaid debt as aforeſaid previous to the ſaid action being brought; to the beſt of this examinant's knowledge and belief the ſaid Samuel Sherwood was not in any reſpect acquainted with or had he ever ſeen or correſponded, or been in any wiſe connected with the above named Thomas Pellatt previous to the ſaid firſt day of October 1791, except by the ſaid Samuel Sherwood executing ſuch authority as aforeſaid, or except that the wife of the ſaid Samuel Sherwood had formerly been acquainted with the ſaid Thomas Pellatt as this examinant has been informed and believes: This examinant believes that the ſaid Thomas Pellatt was firſt introduced to and known by the ſaid S. Sherwood ſometime in or about the beginning of the month of November laſt paſt, when the ſaid Thomas Pellatt, being at that time on a viſit at Chatham, he this examinant did then accompany the ſaid Thomas Pellatt to the houſe of the ſaid Samuel Sherwood, when the ſaid Thomas Pellatt converſed with the ſaid Samuel Sherwood as his attorney concerning the ſaid action againſt Fiſher; the ſaid Thomas Pellatt was not ſo introduced as being, nor was he at ſuch the time of his ſaid introduction underſtood by the ſaid Samuel Sherwood, as this examinant believes, to be an agent to this examinant, or a perſon who permitted or ſuffered his name to be made uſe of upon the account or for the profit of this examinant, but the ſaid Thomas Pellatt was introduced by this examinant to the ſaid Samuel Sherwood as the attorney of the ſaid Samuel Sherwood; and that the ſaid Samuel Sherwood, as this examinant believes, did conſider the ſaid Thomas Pellatt as his attorney, and in reſpect to this examinant in no other light than as the friend and acquaintance of this examinant: This examinant denies that the ſaid Thomas Pellatt did ever permit and ſuffer this examinant to uſe the name of him

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the ſaid Thomas Pellatt upon any occaſion whatſoever in order to enable this examinant to carry on buſineſs as an attorney or ſolicitor. To the third interrogatory this examinant anſwereth and ſaith, that he this examinant has heard and believes that the ſaid James Read heretofore of the town of Chatham aforeſaid but now of Rocheſter in the ſaid county of Kent, for ſome years previous to Hilary term 1791, was a ſworn attorney of this honourable court, and of the court of common pleas, and alſo a ſolicitor of the court of chancery; this examinant has alſo heard and believes that the ſaid James Read did ceaſe or diſcontinue to renew his licence or certificate required by a late act of parliament to be annually taken out by attornies or ſolicitors in or about Hilary term 1791, but continued to retain and employ this examinant in his buſineſs and affairs as his clerk and in his ſervice; that ſome time in or about the month of January 1791, to the beſt of this examinant's recollection and belief, he this examinant did mention to the ſaid James Read this examinant's ſuſpicions that the omiſſion or neglect of the ſaid James Read to take out or renew ſuch licence or certificate might affect the ſervices of this examinant as clerk to the ſaid James Read, and prevent this examinant's admiſſion as an attorney; and he this examinant did thereupon requeſt the ſaid James Read to take out and renew ſuch licence or certificate; the ſaid James Read then informed this examinant that he did not mean to renew ſuch licence or certificate unleſs buſineſs of ſome importance in the common law ſhould offer itſelf, as it was that kind of buſineſs he wiſhed to avoid as much as poſſible, and to confine himſelf to the conveyancing buſineſs only, and that this examinant might not be uneaſy on that account as it would not affect or prevent the admiſſion of this examinant as an attorney on the expiration of this examinant's clerkſhip; and thereupon this examinant continued to act as the clerk of the ſaid James Read; but this examinant does not recollect that he this examinant did ever requeſt the ſaid James Read to permit and ſuffer this examinant to act or practice as an attorney or ſolicitor in the name of the ſaid James Read, otherwiſe than as the clerk to the ſaid J. Read: This examinant ſays, that ſometime in or about the month of April 1791, this examinant then being employed to prepare an aſſignment of certain premiſes in Chatham againſt the then or then late owner, whereof a judgment was entered up in this honourable court at the ſuit of John Simmons, which affected the ſaid premiſes; and William J'Anſon then being concerned on behalf of the purchaſer requiring that ſatisfaction ſhould be entered on the ſaid judgment previous to the execution of the ſaid aſſignment; this examinant did then requeſt the ſaid James Read to ſign an undertaking that ſatisfaction ſhould be entered as aforeſaid, which the ſaid James Read refuſed to do, alledging the want of ſuch certificate, whereupon this examinant did then propoſe to the ſaid James Read that he this examinant would pay for ſuch certificate, provided the ſaid James Read would renew ſuch certificate and ſign ſuch undertaking, which the ſaid James Read refuſed

fuſed to do: This examinant did in or about the month of March 1791 apply to the ſaid Thomas Pellatt who is a relation to the wife of the ſaid James Read, and mentioned to the ſaid Thomas Pellatt the omiſſion of the ſaid James Read to renew ſuch licence and practice common law, did requeſt the ſaid Thomas Pellatt to tranſact ſuch buſineſs as an attorney, as the friends of this examinant might apply to this examinant to do, he this examinant not being an attorney (this examinant's clerkſhip being then nearly expired), and which this examinant might recommend to the ſaid Thomas Pellatt in order to retain ſuch friends; this examinant did not obtain from the ſaid Thomas Pellatt any leave, permiſſion, or conſent whatſoever that the name of the ſaid Thomas Pellatt might be made uſe of upon the account of or for the profit of this examinant either ſolely or jointly with the ſaid Thomas Pellatt, or to ſend this examinant any proceſs iſſuing out of or from this honourable court, or any other court whatſoever, whereby to enable this examinant to appear, act, or practice as an attorney or ſolicitor: This examinant to the beſt of his remembrance and belief did not make, or cauſe, or procure to be made any other application to the ſaid Thomas Pellatt for any permiſſion to uſe the name of the ſaid Thomas Pellatt in or about the buſineſs or practice of an attorney or ſolicitor, otherwiſe than in recommending ſuch friends as aforeſaid: This examinant was not permitted or ſuffered in any manner, or for any purpoſes whatſoever, or upon any terms or conditions, to uſe the ſame, other than in recommendation of this examinant's friends to employ the ſaid Thomas Pellatt as their attorney: This examinant ſays, that the profits of any ſuch buſineſs ſo recommended by this examinant to the ſaid Thomas Pellatt were to be received by the ſaid Thomas Pellatt ſolely, and for his uſe: This examinant ſays, that he this examinant did recommend ſeveral of this examinant's friends to employ the ſaid Thomas Pellatt as an attorney, at the ſame time mentioning this examinant's incapacity to act as an attorney, he this examinant not being admitted in order to retain them, and that this examinant might be employed by them when admitted, this examinant's clerkſhip being then nearly expired; and thereupon the ſaid Thomas Pellatt became the attorney to ſuch perſons. To the fourth interrogatory this examinant anſwereth and ſaith, that he admits that a number (but what number this examinant cannot recollect) of printed cards, ſimilar to the printed card produced and ſhewn to this examinant at the time of his examination, were printed by the direction of this examinant, and ſome few of them diſperſed to this examinant's friends, but that the greater part of ſuch printed cards now remain in this examinant's poſſeſſion, he this examinant having forbore to deliver the ſame, being informed by the ſaid James Read that he had done wrong: This examinant ſays, that ſuch cards were not printed and diſperſed for the purpoſe of notifying, circulating, or ſuggeſting that this examinant had become and was, or that he this examinant was duly qualified to appear, and be, and to act as an attorney and ſolicitor; but that this examinant's

aminant's reaſon and purpoſe for putting his name as an attorney at law on ſuch cards was, that the preparing and executing conveyances, which this examinant had the leave and permiſſion of the ſaid James Read to do, and to receive the profits thereof towards the payment of a ſum of money due from the ſaid James Read to this examinant as aforeſaid, was in general underſtood by this examinant's friends and the inhabitants in general to be the buſineſs of an attorney only, and that this examinant might not be conſidered as diſqualified to tranſact ſuch conveyancing buſineſs: This examinant admits that he this examinant did acknowledge to ſeveral perſons that the ſame was this examinant's card; and this examinant ſays, that to the beſt of this examinant's remembrance he this examinant was aſked by Mr. John Smerdon and Mr. William J'Anſon, or one of them, on or about the fifteenth day of April 1791, whether he this examinant was admitted to be or act as an attorney, or to that or the like effect; this examinant believes that he this examinant did reply, acknowledge, aver, and declare to the ſaid Mr. John Smerdon and Mr. William J'Anſon, or one of them, at the time laſt above-mentioned, that he this examinant was not an attorney; but this examinant having about that time met the ſaid John Smerdon (as clerk to John Simmons), and the ſaid William J'Anſon concerning the execution of an aſſignment in which this examinant, as alſo the ſaid John Simmons and William J'Anſon were concerned, he this examinant, in reſpect of that buſineſs, on ſigning this examinant's name, being requeſted by the ſaid William J'Anſon and John Smerdon, or one of them, to add attorney or clerk to the ſaid James Read thereto, this examinant refuſed, knowing the intentions of the ſaid William J'Anſon and John Smerdon to entangle this examinant in the committing an offence by adding attorney to this examinant's name, and did to the beſt of this examinant's recollection then declare, that he this examinant was not concerned therein as an attorney or an attorney's clerk; and this examinant believes that he this examinant did thereupon inform the ſaid John Smerdon and William J'Anſon, or one of them, that in reſpect of a judgment affecting the premiſes mentioned in the ſaid aſſignment which the ſaid William J'Anſon requeſted on the behalf of the purchaſers of the premiſes, for whom the ſaid William J'Anſon was concerned, might be diſcharged, he this examinant did inform them, or one of them, in order to prevent any objection concerning ſuch judgment, and to prevent the delay of the execution of ſuch aſſignment, that this examinant would find means that ſuch judgment ſhould be diſcharged; but to the beſt of this examinant's recollection and belief, he this examinant did not ſay that he this examinant would find means to practice as an attorney otherwiſe than that ſuch judgment ſhould be diſcharged as aforeſaid; but this examinant ſays, that ſome altercation having taken place between this examinant and the ſaid William J'Anſon, he this examinant was provoked to ſay that he this examinant had a right to aſſume any character he this examinant pleaſed, as well as he

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(meaning the ſaid William J'Anſon, and alluding to the ſaid William J'Anſon's having, as this examinant underſtood, acted a certain character in a play in the barracks at Chatham). To the fifth interrogatory this examinant anſwereth and ſaith, that he this examinant did not, to the beſt of this examinant's remembrance and belief, ever, upon any occaſion, or for any purpoſe whatſoever, repreſent, declare, or inſinuate to the ſaid Samuel Sherwood, or to any other perſon or perſons whatſoever, that he this examinant had been employed by, or acted for divers perſons in divers ſuits and buſineſſes, except buſineſs and matters of conveyancing, and recommending ſuch friends to employ the ſaid Thomas Pellatt as their attorney: This examinant did not repreſent, declare, or inſinuate to the ſaid Samuel Sherwood, or to any other perſon whatſoever, to the beſt of this examinant's remembrance or belief, that he this examinant had been ſo employed by one Jacob Cazeneuve Troy of Chatham aforeſaid, wine merchant, except as aforeſaid; and this examinant denies that he this examinant was ever at any time, or in any manner whatſoever on his this examinant's own account, except as aforeſaid employed by, or did he this examinant ever, or in any manner act for the ſaid Jacob Cazeneuve Troy, or for any other perſon or perſons whatſoever in or about, or touching or concerning any ſuits or buſineſſes, excepting the recommending the ſaid Jacob Cazeneuve Troy and other perſons to employ the ſaid Thomas Pellatt as their attorney, and alſo except the conveyancing buſineſs as aforeſaid, and as herein after mentioned; this examinant was not employed by, nor did he this examinant act for the ſaid Jacob Cazeneuve Troy, in or about the recovery of any debt or ſum of money due to the ſaid Jacob Cazeneuve Troy from the ſaid John Barney, of Hoo in the ſaid county of Kent, nor from any other perſon or perſons whatſoever, except by recommending the ſaid Thomas Pellatt to be employed by the ſaid Jacob Cazeneuve Troy, as his attorney, and whom the ſaid Jacob Cazeneuve Troy before knew, except as hereinafter mentioned: This examinant ſays, that the ſaid Jacob Cazeneuve Troy did apply to this examinant to commence an action againſt the ſaid John Barney for the recovery of a debt, when this examinant informed the ſaid Jacob Cazeneuve Troy, as this examinant had before done, that this examinant was not in a capacity to do ſo, and recommended the ſaid Thomas Pellatt as aforeſaid; but this examinant denies that the ſaid Jacob Cazeneuve Troy did give this examinant any authority, directions, or inſtructions to ſue, or in any other manner whatſoever to act towards or reſpecting the ſaid John Barney, otherwiſe than as aforeſaid, and as hereinafter mentioned; the ſaid John Barney was ſued by the ſaid Thomas Pellatt for the recovery of a debt or ſum of money due to the ſaid Jacob Cazeneuve Troy, and as he this examinant has been informed and believes, a writ of *latitat* or ſome other proceſs did iſſue from this honourable court againſt the ſaid John Barney, at the ſuit of the ſaid Jacob Cazeneuve Troy, and that the ſaid writ was bailable: This examinant ſays, that on

the application of the ſaid Jacob Cazeneuve Troy to this examinant to recover the ſaid debt, he this examinant wrote a letter to the ſaid Thomas Pellatt, informing him of ſuch application, and requeſting his attendance on the ſaid Jacob Cazeneuve Troy, and to receive inſtructions, and to do what was neceſſary for the recovery of the ſaid debt, when this examinant received a letter from the clerk, or perſon who tranſacted the buſineſs of the ſaid Thomas Pellatt in his abſence, informing this examinant that the ſaid Thomas Pellatt was at Ramſgate, or he would have attended, and requeſting this examinant to prepare an affidavit of the debt for the ſaid Thomas Pellatt, and to deſire the ſaid Jacob Cazeneuve Troy to ſwear to the ſame before a commiſſioner, which ſaid affidavit he this examinant did accordingly prepare, and left the ſame with the ſaid Jacob Cazeneuve Troy, informing him of the reaſon why the ſaid Thomas Pellatt did not attend, and that it was neceſſary he ſhould ſwear to the ſame as aforeſaid, which ſaid affidavit the ſaid Jacob Cazeneuve Troy returned to this examinant ſworn, and which this examinant ſent to the clerk of the ſaid Thomas Pellatt as aforeſaid, and that thereupon ſuch writ or proceſs did iſſue: This examinant has been informed, and believes that the ſaid John Barney was arreſted and held to bail for the ſaid debt; the ſheriff's warrant for that purpoſe was ſent to this examinant, and this examinant did receive the ſame by letter from the ſaid clerk of the ſaid Thomas Pellatt, and thereupon he this examinant did give the ſame to Edmund Baker, a bailiff or officer of the ſheriff of Kent, at the ſame time producing to ſuch officer the letter encloſing the ſaid warrant, and informing him how this examinant became poſſeſſed of the ſame, and deſired him to execute the ſame for the ſaid Thomas Pellatt: This examinant ſays, that the ſaid action againſt the ſaid John Barney, at the ſuit of the ſaid Jacob Cazeneuve Troy, is not now ſubſiſting and depending, but that ſometime in November laſt the ſame was accommodated and ſettled by the ſaid Thomas Pellatt and Edmund Baker in this examinant's preſence, and that the ſaid Thomas Pellatt informed the ſaid ſaid Jacob Cazeneuve Troy that he had received from the ſaid Edmund Baker a cheque on the bank for a ſum of money in which the debt and coſts of the action againſt the ſaid John Barney were included, and that being then in a hurry to leave Chatham he would leave the amount of the debt in the hands of this examinant if the ſaid Jacob Cazeneuve Troy approved of the ſame, which the ſaid Jacob Cazeneuve Troy did; and that he this examinant on the ſame day did pay the amount of the ſaid debt to the ſaid Jacob Cazeneuve Troy, and took a receipt for the ſaid Thomas Pellatt for the ſame; but this examinant poſitively denies that he this examinant did derive any benefit or advantage whatſoever to himſelf from the proceedings which had been taken againſt the ſaid John Barney touching or concerning the ſaid debt. To the ſixth interrogatory this examinant anſwereth and ſaith, that the ſaid Thomas Pellatt, who is an attorney of this honourable court, was not ever employed by or for this examinant in

or about the inſtituting, proſecuting, or defending any actions or ſuits whatſoever, at law or in equity, nor did he this examinant ever, or at any time inſtruct or direct, or cauſe, or procure, or prevail on the ſaid Thomas Pellatt to commence, proſecute, or defend any actions or ſuits at law or in equity whatſoever, otherwiſe than by recommending the ſaid Thomas Pellatt to ſeveral of this examinant's friends to act as their attorney till ſuch time as this examinant ſhould be admitted, and in ſending proper inſtructions to the ſaid Thomas Pellatt, to enable the ſaid Thomas Pellatt to commence any actions on behalf of this examinant's ſaid friends, and all the coſts and charges of any ſuch actions and ſuits, if received by this examinant (the amount of which he this examinant cannot particularly recollect and ſet forth) he this examinant always paid or remitted to the ſaid T. Pellatt: This examinant denies that he this examinant did ever receive any emolument or profit whatſoever from any buſineſs tranſacted by the ſaid Thomas Pellatt through the recommendation of this examinant, and this examinant has not received, nor does he expect to receive any ſum or ſums of money from the ſaid Thomas Pellatt in reſpect thereof, ſave and except ſuch ſums of money as he this examinant had been out of pocket, and actually paid on the account of the ſaid Thomas Pellatt in ſuch buſineſs. To the ſeventh interrogatory this examinant anſwereth and ſaith, that he this examinant, being employed in preparing an aſſignment in which the ſaid William J. Anſon and John Simmons were concerned, and the time allowed for the execution of the ſame being nearly expired, and a judgment affecting the ſaid premiſes obtained in this honourable court by Simmons againſt Colvill, the then or late owner thereof, being requeſted by the ſaid William J'Anſon to be diſcharged, he this examinant, to prevent any ſuit at law or in equity ariſing concerning the ſaid judgment, or the execution of the ſaid aſſignment, the ſaid William J'Anſon informing this examinant, that if this examinant would ſign an undertaking, that ſatisfaction ſhould be entered on the ſaid judgment within one month from the date thereof, according to the warrant of attorney executed by the ſaid John Simmons for that purpoſe, the ſaid William J. Anſon would be ſatisfied, and admit the execution of ſuch aſſignment on the behalf of the purchaſer who did thereupon write and ſign the paper writing now produced and ſhewn to this examinant at the time of the examination of him this examinant, and that afterwards this examinant did ſend to the ſaid Thomas Pellatt ſuch warrant executed by the ſaid John Simmons as aforeſaid, together with an authority from the ſaid Edward Colvill, directed to and empowering the ſaid Thomas Pellatt to follow the directions of ſuch warrant, and to enter and acknowledge ſatisfaction on ſuch judgment as aforeſaid: That ſuch warrant of attorney was prepared by this examinant at the requeſt of the ſaid Edward Colvill, John Hooker, and John Leith, or ſome or one of them, who were concerned in the aſſignment of ſuch premiſes, and that ſuch warrant of attorney, at the ſolicitation of this examinant, was executed

cuted by the ſaid John Simmons, and this examinant believes that this examinant and John Smerdon the clerk of the ſaid John Simmons atteſted the execution thereof: This examinant did receive the ſum of fifteen ſhillings for the preparing and attending the execution of ſuch warrant of attorney, as alſo fifteen ſhillings for the preparing and attending the execution of a certain other warrant of attorney, executed by the ſaid John Simmons, for the purpoſe of entering ſuch ſatisfaction as aforeſaid, but which proved, as this examinant was informed, inſufficient for the purpoſe: This examinant did charge in a certain bill in which ſuch warrants were charged the ſum of one pound and nineteen ſhillings, or thereabouts, as money paid by this examinant to the ſaid Thomas Pellatt, on account of the ſaid Edward Colvill, for entering and acknowledging ſatisfaction upon record on ſuch judgment as aforeſaid: This examinant did, to the beſt of this examinant's remembrance and belief, on or about the twenty-ſeventh day of M. 1791, mark on a certain bill made out by this examinant on the ſaid J. H. and John Leith for the preparing ſuch aſſignment, and for the money paid by this examinant to the ſaid Thomas Pellatt as aforeſaid, the date and initials of this examinant's name on being paid by the ſaid John Leith a moiety of the amount of ſuch bill, and no other. [Theſe are all the parts of the anſwer material for the the form].

POSTEAS.

Poſtea at the ſittings at Weſtminſter for defendant in an action of court where the cauſe had been four times made a remanet, and finally plaintiff withdrew the record before a ſpecial jury, and a *tales* where plaintiff did not appear.

AFTERWARDS, that is to ſay, on the day and at the place within-mentioned, before the right honourable Lloyd lord Kenyon, the chief juſtice within written, William Jones, eſq. being aſſociated unto the ſaid chief juſtice by force of the ſtatute in that caſe made and provided, come as well the within-named John Hankey as the within-named London Aſſurance by their reſpective attornies within mentioned, and the jurors of the jury whereof mention is within made being ſummoned, ſome of them, that is to ſay [Set out the names of the ſpecial jury who attended]; and becauſe the reſidue of the jurors of the ſame jury do not appear, therefore other perſons of thoſe ſtanding by the court by the ſheriff of the county aforeſaid, at the requeſt of the ſaid John Hankey, and by command of the ſaid chief juſtice, are now newly ſet down, whoſe names are affiled in the within-written panel according to the form of the ſtatute in ſuch caſe made and provided; which ſaid jurors ſo newly ſet down, that is to ſay, Edward Uttin, Henry Pollard, John Duncan, and William Kibble, being required, came, who together with the ſaid other jurors before impanelled and ſworn to declare the truth of the within-contents were elected, tried, and ſworn, and after evidence being given to them of and upon the within-contents, went from the bar of this court to diſcourſe of their verdict of and upon the premiſes,

miſes, and after the ſaid jury had diſcourſed and agreed among themſelves they came back to the ſaid bar to give their verdict in this behalf, upon which the ſaid John Hankey, being ſolemnly required, came not, nor did he further proſecute his ſaid bill againſt the ſaid London Aſſurance; therefore, &c.

Poſtea in dower on an iſſue whether the huſband died ſeiſed or not, C. B.

AFTERWARDS, on the day and year, &c. (as before till) on their oath ſay that the within-named W. H. the former huſband of the ſaid C. on the day that he married the ſaid C. and afterwards, was ſeiſed of the tenements within mentioned, with the appurtenances, whereof, &c. of ſuch his eſtate as that the ſaid C. could be endowed thereof: And the ſaid jurors upon their ſaid oath further ſay, that the ſaid W. H. being ſo ſeiſed of ſuch his eſtate of and in the tenements aforeſaid, with the appurtenances, died ſo ſeiſed on , and that the tenements aforeſaid, with the appurtenances, whereof, &c. are worth by the year in all iſſues beyond reprizes pounds, and the clear yearly value of the third part is pounds in all iſſues beyond reprizes; and the ſaid jurors aſſeſs the damages of the ſaid B and C. by reaſon of the ſaid J. detaining the dower of her the ſaid C. over and beſides the value aforeſaid, and over and beſides their coſts and charges by him laid out about their ſuit in this behalf to pounds, and for their ſaid coſts and charges to forty ſhillings; therefore, &c.

A continuance. *poſtea*, and final judgment thereof at the aſſizes.

As in the *jurata* of the record.

AFTERWARDS the proceedings therein are continued between the parties aforeſaid of the plea aforeſaid by the jury being reſpited between them before our lord the king at Weſtminſter until , unleſs the king's juſtices aſſigned to hold the aſſizes in the county aforeſaid ſhall firſt come on at G. in the county aforeſaid, according to the form of the ſtatute, &c. for default of the jurors, becauſe none of them did appear; at which day *the ſaid parties come* before our ſaid lord the king at Weſtminſter *by their ſaid attornies* (*a*), and the juſtices of aſſize before whom, &c. now ſend here the record taken before them in theſe words, to wit, afterwards, &c. (to the end of the *poſtea*, and then go on in the ſame line as follows); therefore it is conſidered that the ſaid J. T. recover againſt the ſaid J. R. the damages aforeſaid by the ſaid jury in manner aforeſaid aſſeſſed, and alſo pounds adjudged to the ſaid J. T. at his requeſt by the ſaid court of our ſaid lord the king now here for the increaſe of his ſaid coſts and charges, which ſaid damages in the whole amount to pounds; and the ſaid J. R. in mercy, &c.

(*a*) If the defendant had been returned by the *poſtea* to have made default, then the entry ſhould have been, *the ſaid J. T. comes, &c. by his ſaid attorney.*

Poſtea in debt on bond.

IF in debt on bond where the defendant has denied his deed, inſtead of ſaying, "and the ſaid T. R. is in mercy, &c." it ſhould have been, "and the ſaid T. R. be taken, &c." And formerly the entry was the ſame in all caſes where a breach of the peace was aſſeſſed, as in treſpaſs, ejectment, aſſault, and falſe impriſonment. But the ſtatute 5. Wm. and Mary, c. 12. having in theſe

these four last instances taken away the *capias* and fine, and directed six shillings and eightpence to be paid on signing the final judgment, you must now in these cases leave it out, and say no more than, which said damages amount in the whole to .

AFTERWARDS, that is to say, on the day and year and at the place within mentioned, came as well the within-named G. C. and M. his wife as the within-named W. C. by their attornies within named before J. D. esquire, one of the justices of our lord the king appointed to hold pleas before the king himself, and J. D. esquire, one of his majesty's serjeants at law, his majesty's justices assigned to hold assizes for the within-written county of C. according, &c.; and the jurors of the jury whereof mention is within made summoned to be upon that jury being impanelled and drawn by ballot, according, &c. and called over, come, who to speak the truth of the matters within mentioned being tried and sworn, on their oath say, that as to the coming with force and arms, and every thing else which is against the peace of our said lord the king the said W. is guilty thereof in manner and form as the said G. M. have within complained against him: And the jury aforesaid on their oath further say, that the said W. of his own wrong, and without the cause by him in his plea within alledged, on the thirtieth day of , in the year within mentioned, at within mentioned, made an assault upon the said M. and then and there beat, wounded, and ill treated her, so that her life was despaired of, in manner and form as the said G. and M. have within complained against him; and they assess the damages of the said G. and M. by reason thereof, besides their costs and charges laid out by them about their suit in this behalf, to twenty-one pounds, and for their costs and charges to four pounds; therefore, &c.

Postea at the assizes in trespass and assault where *son assault* pleaded and nothing for plaintiff.

AT which day before our lord the king at Westminster came the parties aforesaid by their attornies aforesaid, and the sheriff of S. did not return the said writ, nor did they do any thing thereupon; therefore let a jury come before our lord the king at Westminster on next after , who are in no wise of kin either to the said J. L. or to the said J. M. to take cognizance upon their oaths of the whole truth of the premises, because as well the said R. as the said J. have put themselves upon that jury; the same day is given to the parties aforesaid at the same place; at which day before our lord the king at Westminster come the parties aforesaid by their attornies aforesaid, and the said sheriffs of L. did not return the said writ, nor did they do any thing thereupon; therefore let a jury come before our lord the king at Westminster on next after , who are in no wise related to the said J. C. or the said R. M. to take cognizance upon their oath of the whole truth of the premises, because as well the said R. as the said J. have put themselves upon that jury; the same day is

Postea, with continuances.

given to the parties aforeſaid at the ſame place; afterwards the proceſs being continued between the parties of the plea aforeſaid by the jury being reſpited between them before our lord the king at Weſtminſter until next after , unleſs the king's right truſty and well beloved William lord Mansfield, his majeſty's chief juſtice aforeſaid, to hold pleas before the king himſelf, according, &c. ſhall firſt come on the day of at Guildhall, London, for default of jurors, becauſe none of them did appear, and the ſaid chief juſtice before whom, &c. ſent hither his record had in theſe words, to wit, afterwards, that is to ſay, on

As in poſtea. the day and at the place within contained, before the right honourable W. earl of M. the king's chief juſtice within written, J. W. gentleman, being aſſociated unto the ſaid chief juſtice by force of the ſtatute in, &c. the within-named J. L. plaintiff, came by his attorney within contained, and the within-named R. M. defendant, although ſolemnly required, came not, but made default, and the jurors of that jury being ſummoned came, who to ſay the truth of the within contents being choſen, tried, and ſworn, ſay

Verdict for plaintiff on ſtatute of limitations. upon their oath that the within-named R. M. within ſix years next before the within-written day of exhibiting the within-ſpecified bill of the ſaid J. L. in the within-written declaration ſpecified undertook in manner and form as the ſaid J. L. as within by replying alledged; and they aſſeſs the damages of the ſaid J. L. by occaſion of the not performing the within promiſes and undertakings, over and above his coſts and charges by him about his ſuit in this behalf expended, to one hundred and ſeventeen pounds eight ſhillings and eightpence, and for their coſts and charges to forty ſhillings; therefore it is conſidered that the ſaid J. L. recover againſt the ſaid R. M. his ſaid damages by the ſaid jury in form aforeſaid aſſigned, and alſo twenty-one pounds eleven ſhillings and fourpence for his ſaid coſts and charges by the court of our ſaid lord the king now here adjudged of increaſe to the ſaid J. L. with his aſſent, which damages in the whole amount to one hundred and forty-one pounds; and the ſaid R. in mercy, &c.

Poſtea for plaintiff at the ſittings in Middleſex. Caſe on promiſes. AFTERWARDS, that is to ſay, on the day and year and at the place within contained, before the right honourable William lord Mansfield, the king's chief juſtice within written, T. W. gentleman, being aſſociated to the ſaid chief juſtice by force of the ſtatute in, &c. come as well the within-named R. H. as alſo the within-named R. J. by their attornies within contained; and the jurors of that jury whereof mention is within made being drawn, &c. according, &c. and called over, likewiſe come and declare the truth of the matter within contained, and being choſen, tried, and ſworn, upon their oath ſay, that the ſaid R. J. did undertake and promiſe in manner and form as the ſaid R. H. hath within complained againſt him; and they aſſeſs the damages of the ſaid R. H. by occaſion thereof, over and above his coſts and charges by him about his ſuit in this behalf expended,

pended, to twenty pounds, and for their coſts and charges to forty ſhillings; therefore it is conſidered that the ſaid R. H. recover againſt the ſaid R. J. the ſaid damages by the ſaid jury in form aforeſaid aſſeſſed, and alſo

Poſtea in an action of debt upon an arbitration bond.

THE within-named A. M. came by her attorney within contained, and the within-named J. M. although ſolemnly demanded, came not, but made default; and the jurors of that jury whereof mention is within mentioned being ſummoned, came to declare the truth of the matter within mentioned, and being choſen, tried, and ſworn, upon their oaths ſay, that the within-named R. W. and G. J. did make and execute their award in writing of and upon the premiſes within mentioned ſo referred to them as within mentioned under their hands and ſeals in manner and form as the ſaid A. hath in her replication within in that behalf alledged; and they aſſeſs the damages of the ſaid A. by occaſion of the detaining the within-mentioned debt, over and above her coſts and charges by her about her ſuit in this behalf expended to one ſhilling, and for her coſts and charges to forty ſhillings.

Poſtea on ſeveral iſſues, viz. *non aſſumpſit*, *non aſſumpſit infra ſex annos*, and ſet off.

AFTERWARDS, that is to ſay, at the day and place within contained, before the right honourable William lord Mansfield, the king's chief juſtice within written, J. W. gentleman, being aſſociated to the ſaid chief juſtice by force of, &c. come as well the within-named J. L. as the within-named G. H. by their attornies within contained; and the jurors of the jury whereof mention is within made being ſummoned come, who to declare the truth of the matters within contained being choſen, tried, and ſworn, upon their oaths ſay, as to the firſt iſſue within joined between the parties, that the within-named G. F. did undertake and promiſe in manner and form as the within named J. L. hath within complained againſt him; and as to the ſecond iſſue within joined between the parties, that the within-named J. F. did within ſix years next before the exhibiting of the bill of the within-named J. L. undertake and promiſe in manner and form as the ſaid J. L. hath within complained againſt him; and as to the ſaid iſſue within joined between the parties, that the ſaid J. was not nor is indebted to the ſaid G. in manner and form as the ſaid G. hath in his laſt plea within mentioned alledged; and they aſſeſs the damages of the ſaid J. L. by occaſion of the not performing the within-mentioned promiſes and undertakings, over and above his coſts and charges by him about his ſuit in this behalf expended to ſixty-one pounds nine ſhillings, and for thoſe coſts and charges to forty ſhillings; therefore, &c.

Poſtea for the defendant on a nonſuit at the Middleſex ſittings in London or within

AFTERWARDS, that is to ſay, on the day and at the place within mentioned, before Philip lord Hardwicke, the chief juſtice

If plaintiff neglects to enter his judgment in two terms after verdict, and defendant should die, the whole proceedings are void by ſtatute.

If a ſpecial jury, *this which is in Italic* is to be left out, and inſtead of it ſay only *being ſummoned and called over likewiſe come.*

within written, C. Carleton Hayward, gentleman, being aſſociated to him according to the form of the ſtatute, &c. as well the within named A. B. the plaintiff as the within written C. D. the defendant, by their attornies within mentioned, do come, and the jurors of the jury whereof mention is made in the within written record *being ſummoned and drawn by ballot according to the form of the ſtatute, &c. likewiſe come*, and being elected, tried, and ſworn to declare the truth of the iſſue within contained, departed from the bar here to conſider of their verdict to be given thereupon, and they having conſidered and agreed thereof among themſelves, returned to the bar here to give their ſaid verdict; whereupon the ſaid A. although ſolemnly demanded, cometh not, nor is his bill within written further proſecuted againſt the ſaid C.; therefore, &c.

Poſtea for plaintiff by default.

AFTERWARDS, on the day and at the place within contained, before the right honourable William earl of Mansfield, the chief juſtice within mentioned, C. H. gentleman, being aſſociated to him according to the form of the ſtatute, &c. the within named A. B. cometh by his attorney within mentioned, and the within written C. D. although ſolemnly demanded, doth not come, but maketh default; therefore let the jury within mentioned be taken againſt him by default, and the jurors of the ſaid jury *being ſummoned and drawn by ballot according to the form of the ſtatute, &c. and called over, likewiſe come*, and being elected, tried, and ſworn to ſpeak the truth of the matters within contained, ſay upon their oath that the ſaid C. did promiſe and undertake in manner and form as the ſaid A. within complains againſt him, and they aſſeſs the damages of the ſaid A. by reaſon of the not performing the promiſes and undertakings within mentioned, beſides his coſts and charges laid out by him about his ſuit in this behalf to , and for his ſaid coſts to ; therefore, &c.

If a ſpecial jury, the ſame as the former.

Poſtea for the plaintiff by default, where he takes his verdict on one promiſe, and the other is found for defendant.

AFTERWARDS, that is to ſay, on the day and at the place within contained, before William earl of Mansfield, the chief juſtice within written, W. B. gentleman, being aſſociated to him according to the form of the ſtatute, &c. the within named L. L. comes by his attorney within mentioned, and the within named W. H. though ſolemnly demanded, comes not, but makes default; therefore let the jury within written be taken againſt him by defendant; and the jurors of that jury being *come, ſummoned, and drawn, according to the form of the ſtatute, &c.* likewiſe come, and being elected, tried, and ſworn to declare the truth of the iſſues within contained, as to the firſt promiſe and undertaking mentioned in the within declaration, upon their oaths ſay, that the ſaid W H. did promiſe and undertake in manner and form as the ſaid L. hath within declared againſt him, and do aſſeſs the damages of the ſaid L. occaſioned by the not performing the ſaid

If a ſpecial jury, leave this out.

firſt

firſt promiſe and undertaking, beſides his coſts and charges laid out by him about his ſuit in this behalf to , and for his ſaid coſts and charges to ; and as to the ſecond promiſe and undertaking in the within declaration mentioned, the ſaid jurors further on their oath ſay, that the ſaid W. H. did not promiſe and undertake in manner and form as the ſaid L. hath within declared againſt him; therefore, &c.

Settled by SERJEANT DRAPER.

Poſtea for the defendant on a verdict.

AFTERWARDS, that is to ſay, on the day, &c. [as before till], as well the within named J. K. the plaintiff as the within written C. D. the defendant, by their attornies within mentioned do come, and the jurors of the jury whereof mention is made in the within written record *being ſummoned and drawn, &c. as before*, likewiſe come, and being elected, tried, and ſworn to declare the truth of the iſſue within contained, ſay upon their oath, that the ſaid C. D. did not aſſume upon himſelf and promiſe in manner and form as the ſaid J. K. hath within complained againſt him, as the ſaid C. D. hath by his plea within alledged; therefore, &c.

Poſtea for plaintiff for parcel of a debt in a declaration containing two counts, and reſidue for defendant at the aſſizes.

AFTERWARDS, on the day and at the place within contained, before E. E. one of the barons of his majeſty's court of exchequer, and ſir S. P. knight, one of his majeſty's ſerjeants at law, juſtices of our lord the king appointed to hold the aſſizes for the county *within* written, according to the form of the ſtatute, &c. as well the within named A. R. as the within named J. B. by their attornies within mentioned, do come, and the jurors of the jury whereof mention is within made being drawn by ballot, &c. as before, and being elected, tried, and ſworn to ſpeak the truth of the matters within contained, ſay upon their oath as to pounds, parcel of the within mentioned pounds in the laſt Count in the within declaration ſpecified, that the ſaid J. B. doth owe the ſame to the ſaid A. in manner and form as the ſaid A. within complains againſt him; and they aſſeſs the damages of the ſaid A. by reaſon of the detaining of the debt within mentioned as to the ſaid pounds, parcel of the ſaid pounds over and above his coſts and charges which he hath been put to about the ſuit in this behalf to one ſhilling, and for her ſaid coſts and charges to forty ſhillings; and as to the reſidue of the ſaid pounds within mentioned, the ſaid jurors ſay further on their ſaid oath, that the ſaid J. B. doth not owe the ſame to the ſaid A. as the ſaid J. B. by his within pleadings hath alledged; therefore, &c.

Poſtea for plaintiff, where defendant proved a ſet off, and a verdict was taken for the bail.

AFTERWARDS, viz. on the day and year and at the place within mentioned, come as well the within named J. M. as the within

within named R. G. by their attornies within named, before E. C. eſquire, one of the barons of his majeſty's court of exchequer, and ſir S. B. knight, one of his majeſty's ſerjeants at law, juſtices of our lord the king aſſigned to hold the aſſizes for the within written county of G. according to the form of the ſtatute, &c.; and the jurors of the jury whereof mention is made, ſummoned to be upon the jury, being impanelled and drawn by ballot, according to the form, &c. and called over come, who to ſpeak the truth of the matters within contained being tried and ſworn on their oath, ſay, that the ſaid R. did undertake in manner and form as the ſaid J. M. hath within complained againſt him, and they aſſeſs the damages of the ſaid J. M. by reaſon of the premiſes, beſides his coſts and charges by him laid out and expended about his ſuit in this behalf, after having ſet off and deducted the ſum of ten ſhillings for work and labour by the ſaid R. for the ſaid J. M. and for the hire of horſes let to hire by the ſaid R. for the ſaid J. M. to pounds, and for his coſts and charges to forty ſhillings; therefore, &c.

Poſſes for plaintiff for part of a debt againſt an executor on *plene adminiſtravit* pleaded.

[AS before till] on their oath ſay, that the within named B. at the time of exhibiting the within mentioned bill, had divers goods and chattels which were of the within mentioned E. at the time of his death in her hands to be adminiſtered to the value of pounds, parcel of the within mentioned debt, and they aſſeſs the damages of the ſaid A. by reaſon of the detaining the ſaid debt, beſides his coſts and charges about his ſuit in this behalf expended to one ſhilling, and for his coſts and charges to forty ſhillings.

JUDGMENTS.

Form of entering up a judgment on roll in caſe by *nil dicit*, and award of enquiry.

AND the ſaid Andrew and Elizabeth his wife, by T. Cox their attorney, come and defend the wrong and injury, when, &c. and ſay nothing in bar or preclusion of the action of the ſaid Robert, whereby the ſaid Robert remains againſt the ſaid Andrew and Elizabeth his wife without defence, by reaſon whereof the ſaid Robert ought to recover his damages againſt the ſaid Andrew and Elizabeth his wife by occaſion of the premiſes aforeſaid; but becauſe it is unknown what damages the ſaid Robert hath ſuſtained as well by occaſion of the premiſes aforeſaid, therefore the ſheriff is commanded, that by the oaths of good and lawful men he diligently enquire what damages the ſaid Robert hath ſuſtained as well by occaſion of the premiſes aforeſaid, as alſo for his coſts and charges by him expended about his ſuit in this behalf, and that he remit the inquiſition he ſhall make to the juſtices of our lord

lord the king at Weſtminſter from the day of on under his ſeal and the ſeals of thoſe by whoſe oaths he took that inquiſition.

CORNWALL, to wit. James Lakes, who was arreſted at the ſuit of Theophilus Danbury, by virtue of a writ of our lord the king of *latitat* iſſuing out of the court of our lord the king at Weſtminſter, and to the ſheriff of Cornwall, directed and returnable there at Weſtminſter before our lord the king on Tueſday next after one month of St. Michael, in the eighteenth year of the reign of our ſaid lord the king, at which day the ſaid James appeared by Samuel Thomas his attorney; and becauſe the ſame Theophilus doth not further proſecute his ſaid bill, therefore thirty-three ſhillings are adjudged to the ſaid James for his coſts and charges laid out by him in this behalf, according to the form of the ſtatute, &c.; and the ſaid Theophilus and his pledges of the proſecution, to wit, John Doe and Richard Roe, in mercy, &c. and the ſaid James thereupon goes without a day, &c.

Non proſ. for want of a declaration.

AND the ſaid J. by John Till his attorney, comes and defends the wrong and injury when, &c. and the ſaid D. prays that the ſaid J. may anſwer her ſaid bill, whereupon the aforeſaid attorney of the ſaid J. ſays that he is not informed by the ſaid J. of any anſwer to be given for the ſame J. to the above D. in the aforeſaid ſuit, and ſays nothing elſe thereon in bar or preclusion of the ſaid action of the ſaid D. whereby the ſaid D. remains againſt the ſaid J. undefended therein, &c.; therefore it is conſidered that the aforeſaid D. recover againſt the ſaid J. her ſaid debt, and alſo ſixty-three ſhillings for her damages, which ſhe hath ſuſtained as well by reaſon of the detaining that debt as for her coſts and charges laid out by her about her ſuit in this cauſe to the ſaid D. by the court of our lord the king now here with her aſſent now adjudged; and the ſaid J. in mercy, &c.

Judgment by *non eſt informatus* in debt.

AND the ſaid George, in his proper perſon, comes and defends the wrong and injury when, &c. and prays leave to imparl to the bill aforeſaid of the ſaid Joanna, and it is granted him, &c. and upon this a day is thereupon given to the parties aforeſaid before our lord the king at Weſtminſter until this ſame term, to wit, to the ſaid George, to imparl to the bill aforeſaid, and then to anſwer, &c.; at which day, before our lord the king at Weſtminſter, comes the ſaid Joanna by her attorney aforeſaid; and the ſaid George, although ſolemnly called, comes not, nor ſays any thing in bar or preclusion of the ſaid action of the ſaid Joanna, whereby the ſame Joanna remains againſt the ſaid George undefended therein; therefore it is conſidered that the aforeſaid Joanna do recover againſt the ſaid George her debt aforeſaid, and

Judgment, *nil dicit* in debt in K. B.

Here inſert the laſt day of term.

alſo eighty-three ſhillings for her damages which ſhe hath ſuſtained as well by reaſon of the detaining that debt as for her coſts and charges laid out by her about her ſuit in that behalf adjudged to the ſaid Joanna by the court of our ſaid lord the king now here with her aſſent; and the ſaid George in mercy, &c.

Cognovit actionem in caſe in K. B. with imparlance.

AND now here at this day, to wit, on , next after this ſame term, until which day the ſaid Charles had leave to imparl to the bill aforeſaid, and then to anſwer, &c. before our lord the king at Weſtminſter, comes as well the aforeſaid George by his attorney aforeſaid, as the ſaid Charles in his proper perſon; and the ſaid Charles defends the wrong and injury when, &c. and ſaith, that he the ſaid Charles cannot deny the ſaid action of the ſaid George, nor but that he the ſaid Charles did aſſume upon himſelf in manner and form as the ſaid George hath above complained againſt him; nor but that he the ſaid George hath ſuſtained damage by reaſon of the not performing the ſaid promiſes and aſſumptions by him the ſaid Charles beyond his coſts and charges laid out by the ſaid George about his ſuit in this caſe to nine pounds eighteen ſhillings; therefore it is conſidered that the ſaid George do recover againſt the ſaid Charles the ſaid nine pounds eighteen ſhillings for his damages aforeſaid which he hath ſuſtained by reaſon of the not performing of the ſaid promiſes and aſſumptions beyond his coſts and charges laid out by him about his ſuit in this cauſe, and for thoſe coſts and charges four pounds ten ſhillings, making together in the whole fourteen pounds eight ſhillings, adjudged to the ſaid George by the court of our ſaid lord the king now here with his aſſent; and the ſaid Charles in mercy, &c.

Judgment againſt the caſual ejector in ejectment, with a writ of enquiry awarded.

AND the ſaid John Wrong, by Henry Foote his attorney, comes and defends the wrong and injury when, &c. and ſays nothing in bar or preclusion of the action of the aforeſaid Richard Right, by which the ſaid R. R. remains againſt the ſaid John Wrong undefended therein; therefore it is conſidered that the aforeſaid Richard Right do recover againſt the ſaid John Wrong his term of and in two meſſuages, &c. with the appurtenances yet to come, and his damages by the occaſion of the treſpaſs and ejectment aforeſaid; it is commanded that the ſheriff, by the oath of twelve good and lawful men of his bailiwick, diligently enquire what damages the aforeſaid R. R. hath ſuſtained by occaſion of the treſpaſs and ejectment aforeſaid, as for his coſts and charges by him laid out about his ſuit in this behalf, and the inquiſition which he ſhall cauſe to be made he make appear hereon from the under his ſeal and the ſeals of them by whom ſuch inquiſition ſhall be made; the ſame day is given to the aforeſaid R. R. here, &c.; and upon this the aforeſaid R. prays a writ of our lord the king to be delivered to the ſheriff of the county

aforeſaid, to cauſe him to have poſſeſſion of his term aforeſaid of and in the tenements aforeſaid, with the appurtenances as that to come, and it is granted to him returnable before our ſaid lord the king at Weſtminſter on Wedneſday next after , the ſame day is given to the parties aforeſaid at the ſame place.

GLOUCESTER, to wit. C. D. was ſerved (*a*) with a copy of a certain writ (*b*) of *alias copias* of his preſent majeſty king George the Third, iſſuing out of the court of his ſaid majeſty before his ſaid majeſty at Weſtminſter, directed to the ſheriff of Glouceſter, and returned before our lord the king at Weſtminſter aforeſaid on next after in Eaſter term now laſt paſt, to anſwer to A. B. in a plea of treſpaſs (*c*); and the ſaid C. the ſame day appeared by E. P. his attorney (*d*) at the ſuit of the ſaid A. according to the ſtatute in ſuch caſe lately made and provided, and the ſaid A. in the ſaid court of our ſaid lord the king before the king himſelf at Weſtminſter, hath not declared in the ſaid court by his bill or declaration in any perſonal action or ejectment againſt the ſaid C. before the end of Trinity term then next enſuing, being the next term after the appearance of the ſaid C. at the ſuit of the ſaid A.; therefore it is conſidered that the ſaid A. take nothing by his ſaid writ, but that he be in mercy; and it is further conſidered that the ſaid C. recover againſt the ſaid A. thirty-three ſhillings for his coſts and charges by him ſuſtained about his defence in this behalf adjudged to the ſaid C. by the court of our ſaid lord the king now here, according to the form of the ſtatute in ſuch caſe lately made and provided, and that the ſaid C. have execution thereof.

J. WALLACE.

Non proſ. for want of a declaration in B. R.

(*a*) or arreſted, as the caſe is.

(*b*) a certain precept of our lord the king called a bill of Middleſex, iſſuing out of the court of our ſaid lord the king before the king himſelf, and to the ſheriff of M. directed.

(*c*) If there is *ac etiam* inſert it.

(*d*) If bailable, ſay, and put in ſpecial bail.

GLOUCESTER, to wit. A. B. who brought his preſent majeſty's writ againſt C. D. late of , in the county aforeſaid, of a plea of treſpaſs, hath not proſecuted the ſaid writ; therefore it is conſidered by the court here, that the ſaid A. and the pledges for the proſecution be in mercy, &c. The names of the ſaid A.'s pledges are John Doe and Richard Roe, and that the ſaid C. go thereof without day; it is alſo conſidered that the ſaid C. recover againſt the ſaid A. his damages occaſioned by the ſaid premiſes to be adjudged to the ſaid C. by the court, through the direction of the juſtices here at the requeſt of the ſaid C. for his coſts and charges laid out by him in that behalf, according to the form of the ſtatute in ſuch caſe lately made and provided, &c.

Non proſ. for want of a declaration in C. B.

AND now at this day, to wit, on Friday next after eight days of St. Hilary in this ſame term, until which day the aforeſaid Richard

Nil dicit in ejectment againſt the caſual ejector, with a *remittitur* of damages.

Richard Roe had leave to imparl to the bill aforeſaid, and then to anſwer the ſame before our lord the king at Weſtminſter, the aforeſaid John Doe by his attorney comes and prays that the aforeſaid Richard Roe may anſwer to his declaration aforeſaid, and the ſaid Richard Roe, although at that day ſolemnly called, did not appear or ſay any thing in bar or preclusion aforeſaid of the ſaid J. Doe, whereby the ſame John Doe remains againſt the ſaid Richard Roe thereof undefended; wherefore it is conſidered that the aforeſaid John Doe recover againſt the ſaid Richard Roe his term aforeſaid yet to come of and in the tenements aforeſaid, with the appurtenances, and alſo his damages againſt the Richard Roe occaſioned by the treſpaſs and ejectment aforeſaid; and hereupon the ſaid John Doe freely here in court remits to the aforeſaid Richard Roe as well all ſuch damages, coſts, and charges which may be adjudged to the aforeſaid John Doe in that behalf, as alſo all executions for the ſame damages, coſts, and charges; therefore the ſaid Richard Roe is acquitted from theſe damages, coſts, and charges, and thereof is without a day, and may depart the court, and the aforeſaid John Doe prays the writ of our lord the king to be directed to the ſheriff of the ſaid county of Middleſex aforeſaid, to cauſe him to have his full poſſeſſion of and in the tenements aforeſaid, with the appurtenances, and it is granted to him returnable before our ſaid lord the king at Weſtminſter on Wedneſday next after ; the ſame day is given to the parties aforeſaid at the ſame place.

Final judgment in B. R. in *aſſumpſit.*

AT which day the ſaid William comes before our lord the king at Weſtminſter by his ſaid attorney, and the ſheriffs, namely William Peers and William Naſh, eſquires, ſheriffs of London, now return an inquiſition taken before them at Guildhall, in the city of London aforeſaid, in the pariſh of St. Lawrence Jury, in the ward of Cheap in the ſame city, on the fourteenth day of November, in the ninth year of his ſaid majeſty's reign, on the oath of twelve good and lawful men of their bailiwick; by which it is found, that the ſaid William hath ſuſtained damages to fifty-two pounds ſeventeen ſhillings, by reaſon of the not performing ſeveral promiſes and undertakings aforeſaid to twenty-ſeven ſhillings and fourpence; therefore it is conſidered that the ſaid William recover againſt the ſaid Edward his damages found by the ſaid inquiſition in form aforeſaid, and alſo eight pounds fifteen ſhillings and eightpence, adjudged to the ſaid William at his requeſt by his ſaid majeſty's ſaid court now here, for the increaſe of his ſaid coſts and charges, which ſaid damages amount in the whole to ſixty-three pounds; and the ſaid Edward is in mercy.

Entry of a judgment in county palatine upon the roll.

AND now at this day, that is to ſay, on Wedneſday next after fifteen days from the day of Eaſter in this ſame term, until which day the ſaid John had leave to imparl to the ſaid bill, and then

then to anſwer, &c. before our lord the king at Weſtminſter, the ſaid John comes by his attorney aforeſaid, and prays that the ſaid John anſwer his ſaid declaration; and the ſaid John, although at that day ſolemnly required, comes not, nor does he ſay any thing in bar or preclusion of the ſaid action by which the ſaid Thomas remains thereof undefended againſt them, wherefore the ſaid Thomas ought to recover againſt the ſaid John his damages by reaſon of the not performing the ſaid promiſes and undertakings in the ſaid declaration mentioned, but becauſe it is unknown to the court of our ſaid lord the king now here what damages the ſaid Thomas hath ſuſtained by occaſion of the premiſes, it is therefore commanded to the chancellor of the ſaid county palatine of Lancaſter that by the writ of our ſaid lord the king under the ſeal of our ſaid county palatine duly to be made out, and to the ſheriff of the ſaid county palatine to be directed, he do command the ſaid ſheriff that by the oath of twelve honeſt and lawful men of his bailiwick he diligently enquire what damages the ſaid Thomas hath ſuſtained, as well by occaſion of the non-performance of the ſaid promiſes and undertakings, as for his coſts and charges by him about his ſuit in that behalf laid out, and the inquiſition which he ſhall thereupon take the ſaid chancellor of the ſaid county palatine make appear to our ſaid lord the king at Weſtminſter on Wedneſday next after three weeks from the day of the Holy Trinity, under the ſeal of the ſaid ſheriff, and the ſeal of them by whoſe oath he ſhall make ſuch inquiſition, together with the writ of our ſaid lord the king to the ſaid chancellor of our ſaid county palatine thereupon directed; at which day, before our lord the king at Weſtminſter, came the ſaid Thomas by his attorney aforeſaid; and the chancellor, to wit, the right honourable Thomas earl of Monmouth, chancellor of the county palatine of Lancaſter, by virtue of the king's writ to him directed, returned a certain inquiſition taken at Preſton, in the ſaid county of Lancaſter, before ſir William Farrington, knight, ſheriff of the ſaid county, by virtue of the king's writ under the ſeal of the ſaid county, made and directed to the ſheriff on the fourth day of June, in the firſt year of the reign of our ſovereign lord king George the Third, now king of Great Britain, &c. by the oath of twelve good and lawful men of his bailiwick; by which it is found, that the ſaid Thomas hath ſuſtained damages by occaſion of the non-performance of the promiſes and undertakings in the ſaid declaration mentioned over and above his coſts and charges by him about his ſuit in this behalf expended to one pound nine ſhillings and ſixpence, and for thoſe coſts and charges to forty ſhillings; therefore it is conſidered, that the ſaid Thomas do recover againſt the ſaid John his damages aforeſaid, by the ſaid inquiſition in form aforeſaid found, and ten pounds and ſixpence by the court of the ſaid lord the king now here adjudged to the ſaid Thomas at his requeſt for increaſe of his ſaid coſts and damages, amounting in the whole to thirteen pounds ten ſhillings; and the ſaid John in mercy, &c.

GLOU-

Non pros. for want of a declaration.

GLOUCESTERSHIRE, to wit. C. D. was ſerved with (or arreſted, as the caſe is) a certain writ of *alias capias* of his preſent majeſty king George the Third, iſſuing out of the court of his ſaid majeſty before his ſaid majeſty at Weſtminſter, directed to the ſheriff of G. returnable at Weſtminſter aforeſaid on next now laſt paſt, to anſwer to A. B. of a plea of treſpaſs (as the caſe is); and the ſaid C. at the ſame day appeared by K. W. his attorney, according, &c.; and the ſaid A. hath not declared in the ſaid court by his ſaid bill or declaration in any perſonal action or ejectment againſt the ſaid C. before the end of term next enſuing, being the next term after the appearance of the ſaid C. at the ſuit of the ſaid A.; therefore it is conſidered, that the ſaid A. take nothing by the ſaid writ, but that he be in mercy; and it is further conſidered, that the ſaid C. recover againſt the ſaid A. thirty-three ſhillings and ſixpence for his coſts and charges ſuſtained by him about his defence in this behalf adjudged to the ſaid C. by his ſaid majeſty's court now here, according to the form, &c. and that the ſaid C. have execution thereof againſt the ſaid A. &c.

Non pros. for not replying and entering iſſue on not guilty pleaded after the plea, and concluſion to the country.

AND the ſaid C. prays that the ſaid A. may reply to the ſaid plea of him the ſaid C. upon which the ſaid A. is commanded by the court of our ſaid lord the king now here that he reply to the ſaid plea, and enter the iſſue in the plea aforeſaid upon Monday (*a*) next after fifteen days from the day of St. Martin, *upon the peril thereon incumbent*; upon which day the ſaid C. comes before the ſaid lord the king at Weſtminſter by his ſaid attorney; and the ſaid A. though ſolemnly demanded, doth not come, nor hath he replied to the ſaid plea of the ſaid C. nor is the ſaid bill further proſecuted againſt the ſaid C.; therefore it is conſidered by the ſaid court here that the ſaid A. take nothing by the ſaid bill, but that he and his pledges of proſecuting, to wit, John Doe and Richard Roe be in mercy, and that the ſaid C. go thereof without day, &c.; and it is alſo conſidered, that the ſaid C. recover againſt the ſaid A. for his coſts and charges laid out by him about his ſaid defence in this behalf adjudged to the ſaid C. at his requeſt by the ſaid court of our ſaid lord the king now here, according, &c. and that the ſaid C. have execution, &c.

Mercy.

The ſame form will do for not replying to a ſpecial plea, only leaving out the words "And enter the iſſue in the plea aforeſaid."

(*a*) The day given by the rule to reply, if in term; but if the day given is after term, then put in the laſt day of the term, for all acts muſt be entered as done within the term.

Non pros. for not declaring in C. B.

GLOUCESTERSHIRE, to wit. J. W. late of T. in the county aforeſaid, yeoman, A. C. late of, &c. innholder, and H. H. of the ſame place, butcher, and M. his wife, were ſeverally attached by his preſent majeſty's writ to anſwer J. M. in a plea of treſpaſs;

treſpaſs; whereupon the ſaid J. being ſummoned to proſecute the ſaid J. A. H. and M. came not, nor doth he proſecute his ſaid writ any further againſt them; therefore it is conſidered, that the ſaid J. and his pledges for the proſecution be in mercy, &c. (Inquire the names of the pledges, &c.); and that the ſaid J. A. &c. go thereof without day; and it is likewiſe conſidered, that the ſaid J. A. &c. recover againſt the ſaid J. their damages occaſioned by the premiſes adjudged to the ſaid J. A. &c. by the court here, *through the direction* of the juſtices here at the requeſt of the ſaid J. A. for their coſts and charges laid out by them in that behalf, according to the, &c.; and that the ſaid J. A. &c. have execution, &c. &c.

Non proſ. for not declaring in B. R. defendant ſerved with common proceſs.

BUCKINGHAMSHIRE, to wit. J. T. was ſerved with a copy of a writ of our lord the king, iſſuing out of the court of our lord the king before the king himſelf, and directed to the ſheriff of the county of Bucks, returnable on , to anſwer to J. H. of a plea of treſpaſs; and the ſaid Thomas at that day appeared, according to the form of the ſtatute, &c. and the aforeſaid J. hath not declared in the aforeſaid court of our ſaid lord the king, before the king himſelf at Weſtminſter, by his bill or declaration in any action perſonal or ejectment of farm againſt him the ſaid J. before the end of the term of then next following, being the next term after the appearance of him the ſaid J. at the ſuit of the ſaid J.; therefore it is conſidered, that the ſaid J. do take nothing by his ſaid writ, but that he be in mercy, &c.

Non proſ. for want of a declaration in C. B.

G. to wit. A. B. who brought his preſent majeſty's writ againſt C. B. late of, &c. in the county aforeſaid, in a plea of treſpaſs, hath not proſecuted the ſaid writ; therefore it is conſidered by the court here, that the ſaid A. and his pledges for the proſecution be in mercy, and the names of the ſaid A.'s pledges are J. C. and C. D. and that the ſaid C. thereof go without day; it is alſo conſidered, that the ſaid C. recover againſt the ſaid A. his damages occaſioned by the premiſes to C. adjudged to the ſaid C. by the court here through the, &c. here at the requeſt of the ſaid C. for his coſts and charges laid out by him in that behalf according, &c. &c.

Inſtructions for a *non proſ.* for not entering the iſſue in C B.

In order to obtain a *non proſ.* for not entering an iſſue, you muſt get a treaſury rule, which the Secondary draws up of courſe. That unleſs within four days after notice of this rule to him or his attorney to be given, the plaintiff cauſe to be entered on record the iſſues joined between the parties of term laſt of the ſame term, let a *non proſ.* be entered—for this rule you pay three ſhillings and ſix-pence.

Non proſ. for not entering the iſſue.

—— to wit. J. W. late of T. in the ſaid county of G. yeoman, was attached to anſwer J. M. in a plea of treſpaſs on the caſe;

caſe; and whereupon [So go on with the iſſue ending with]; and of this he puts himſelf upon the country; and the ſaid J. doth the like, &c. [Then proceed with the *non proſ.* as follows]: And hereupon the ſaid Thomas cometh not, nor hath entered the iſſue aforeſaid, nor hath further proſecuted aforeſaid, therefore let him and his pledges of proſecution be in mercy, &c. [Let the names of the pledges be ſought, &c.]; and the ſaid J. go thereof without day; and it is alſo conſidered, that the ſaid J. do recover againſt the ſaid T. fifty-ſix pounds eight ſhillings by the court here adjudged to the ſaid J. at his requeſt, for his coſts and charges laid out by him in this behalf to, &c.

Non proſ. upon a bailable *latitat* into Lancaſter for not declaring.

LANCASHIRE, to wit. J. C. was arreſted by a certain writ of mandate directed to the ſheriff of the county palatine of Lancaſter, and grounded upon a certain writ of *latitat* of his preſent majeſty king George the Third, iſſuing out of the court of his ſaid majeſty, before his ſaid majeſty at Weſtminſter, directed to the chancellor of the county palatine, and returnable at Weſtminſter aforeſaid on in the year of his preſent majeſty's reign, to anſwer R. R. of a plea of treſpaſs; *and alſo to a bill of the ſaid R. againſt the ſaid J. for one hundred pounds upon promiſes, according to the cuſtom of his majeſty's court before him to be exhibited*; and the ſaid J. in the ſame term appeared by A. B. his attorney, *and put in ſpecial bail according*, &c. [or filed common bail]; and the ſaid R. hath not declared in the ſaid court by his bill or declaration againſt the ſaid J. before the end of Trinity Term then next enſuing, being the ſecond term after the appearance (*and putting of ſpecial bail*) of the ſaid James at the ſuit of the ſaid Richard; and therefore it is conſidered, that the ſaid R. take nothing by his ſaid writ, but that he be in mercy; and it is further conſidered, that the ſaid J. recover againſt the ſaid R. fifty pounds for his coſts and charges ſuſtained by him about his defence in this behalf adjudged to the ſaid J. by his ſaid majeſty's court now here, according, &c. and that the ſaid James have execution, &c. &c.

Non proſ. for not declaring in Lancaſter ſervice of *latitat* there.

LANCASHIRE, to wit. E. L. was ſerved with a writ of *latitat* of our lord the king, iſſuing out of the court of our ſaid lord the king, before the king himſelf at Weſtminſter, directed to the chancellor of the county palatine of Lancaſter, and returnable at Weſtminſter aforeſaid on Monday next after the aſcenſion of, &c. [as above.]

Judgment of *non-ſuit* according to the ſtat. 14 G. 2.

CITY OF YORK returnable three weeks after Trinity term; at which day the jury between the parties aforeſaid of the plea aforeſaid was reſpited between them here until this day, that is to ſay, from the day of then next following, unleſs

unleſs the juſtices of the ſaid lord the king aſſigned to take the aſſizes in the county of the city aforeſaid, by form of the ſtatute and ſo forth on ſhould firſt come; and now at this day cometh here the ſaid M. A. by his attorney aforeſaid; and the ſaid J. W. although ſolemnly demanded, cometh not; and it appearing to the juſtices here that the ſaid J. W. hath neglected to bring the iſſue above joined in to be tried according to the courſe and practice of this court; therefore according to the, &c. it is conſidered that the ſaid J. W. and his pledges of proſecuting be in mercy, &c. [Inquire the names of the pledges, &c.], and that the ſaid M. A. do go thereof without day; it is alſo conſidered, that the ſaid M. A. recover againſt the ſaid J. W. his damages by reaſon of the premiſes to ten pounds, by the direction of the juſtices adjudged to the ſaid M. A. at his requeſt, and for his coſts and charges by him in that behalf ſuſtained, according to the form, &c.

Final judgment on a writ of inquiry into Lancaſter.

AT which day, before our ſaid lord the king at Weſtminſter, the ſaid J. comes by his attorney aforeſaid, and the chancellor of the ſaid county palatine returned that by virtue of the king's writ to him directed by another writ under the ſeal of the ſaid county palatine of L. he had commanded the ſheriff of the ſaid county, namely, A. B. eſquire, as by the ſaid writ he was commanded, who in anſwer to the ſaid writ returned a certain inquiſition taken before him at P. in the ſaid county, on Monday, the eleventh day of January, in, &c. by which ſaid inquiſition it is found that the ſaid J. ſuſtained damages by reaſon of the ſaid premiſes, beſides his coſts and charges by him expended about his ſuit in this behalf to pounds, and for thoſe coſts and charges to pounds; therefore it is conſidered, that the ſaid T. recover againſt the ſaid damages ſo as aforeſaid found by the ſaid inquiſition, and alſo pounds for the increaſe of his ſaid coſts and charges adjudged by the ſaid court to the ſaid T. at his requeſt, which ſaid damages amount in the whole to the ſum of pounds; and the ſaid J. in mercy, &c.

Nil dicit in debt, with an imparlance.

AND now at this day, that is to ſay, on (*a*) next after in this ſame term, until which day the ſaid B. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as he ſhould be adviſed, the ſaid A. comes before our ſaid lord the king at Weſtminſter by his ſaid attorney; and the ſaid B. although on the ſame day ſolemnly demanded, does not come, nor ſays any thing in bar or denial of the aforeſaid action of the ſaid A. whereby the ſaid A. remains thereon againſt the ſaid B. without defence; therefore it is conſidered, that the ſaid A. recover againſt the ſaid B. his aforeſaid debt, and alſo pounds, adjudged to him the ſaid A. at his requeſt by the ſaid court of our ſaid lord the king now here for his damages which he had ſuſtained as well by reaſon of the

(*a*) The firſt day of term.

detaining of the ſaid debt as for his coſts and charges laid out by him about, &c.; and the ſaid B. in mercy, &c.

Nil dicit in debt *the ſame term*, with an imparlance.

AND the ſaid B. by C. D. his attorney, comes and defends the wrong and injury when, &c. and prays leave to imparl to the bill aforeſaid, and it is granted to him, &c.; and hereupon a day is given to the ſaid parties before our lord the king at Weſtminſter until (*a*) next after in this ſame term, to wit, for the ſaid B. to imparl to the ſaid bill, and then to anſwer the ſame as he ſhould be adviſed, at which day the ſaid A. comes before our ſaid lord the king at Weſtminſter by his ſaid attorney; and the ſaid B. although on the ſame day ſolemnly demanded, does not come, nor ſays any thing in bar, &c. [as before, to the end.]

(*a*) The laſt day of the term, or any other day after the rule to plead is out.

Nil dicit in caſe, on promiſes of *another term*, with imparlance.

AND now at this day, that is to ſay, on next after in this ſame term, until which day the ſaid B. had leave to, &c. to the ſaid bill, and then to anſwer the ſame as he ſhould be adviſed, the ſaid A. comes before our ſaid lord the king at Weſtminſter by his ſaid attorney; and the ſaid B. although on the ſame day ſolemnly demanded, comes not, nor ſays any thing in bar or denial of the aforeſaid action of the ſaid A. whereby the ſaid A. remains thereon againſt the ſaid B. without defence; therefore it is conſidered that the ſaid A. ought to recover againſt the ſaid B. his damages ſuſtained (*b*) *by reaſon of the not performing the promiſes and undertakings before-mentioned*; but becauſe the ſaid court of our ſaid lord the king now here doth not know what damages the ſaid A. hath ſuſtained in this behalf, therefore the ſheriff of the ſaid county is commanded that by the oath of twelve good and lawful men of his bailiwick he diligently enquire what damages the ſaid A. hath ſuſtained, as well by reaſon (*c*) *of not performing the ſaid promiſes and undertakings* as for his coſts and charges laid out by him about his ſuit in this behalf, and that he ſend the inquiſitions which he ſhall take thereupon to our ſaid lord the king at Weſtminſter on next after under his ſeal and the ſeals of thoſe by whoſe oath he ſhall take ſuch inquiſition, together with the king's writ to him thereupon directed, the ſame day is given to the ſaid A. there, &c.

(*b*) If in caſe generally, then ſay by reaſon of the premiſes.

(*c*) If in caſe generally, as above.

Nil dicit of the ſame term in caſe, on promiſes, without an imparlance.

AND the ſaid B. by K. W. his attorney, comes and defends the wrong and injury when, &c. and the ſaid A. prays that the ſaid B. may anſwer to the aforeſaid declaration of him the ſaid A. whereupon the ſaid B. hath until (*d*) next after given to him

(*d*) Any day in term after the rule is out, and if it generally made the laſt day of term,

by

by his ſaid majeſty's court here, to anſwer to the ſaid declaration of the ſaid A. and the ſame day is given to the ſaid A. here, &c.; at which day the ſaid A. comes before our ſaid lord the king at Weſtminſter by his ſaid attorney; and the ſaid B. although on that day ſolemnly demanded to anſwer thereto, cometh not, nor ſaith any thing in bar or denial of the aforeſaid action of the ſaid A. whereby the ſaid A. remains thereon againſt the ſaid B. without defence; therefore it is conſidered that the ſaid A. ought to recover againſt the ſaid B. his damages ſuſtained (*a*) by reaſon, &c. before-mentioned; but becauſe, &c. [as above to the end.]

(*a*) If in caſe generally, ſay "by reaſon of the premiſes.

[THE ſame as *nil dicit* in debt till]; therefore it is conſidered that the ſaid B. *account* with the ſaid A. of the time in which he became the bailiff of the ſaid A. and for (*b*) the goods and chattels aforeſaid; and the ſaid B. is in mercy, becauſe he hath not before accounted, &c.

Judgment to account in an action of *account*.

(*b*) According to the declaration, Raſt. f. 19.

AND now at this day, that is to ſay, next after in this ſame term, until which day the ſaid B. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as he ſhould be adviſed, the ſaid A. comes before our lord the king at Weſtminſter by his ſaid attorney; and the ſaid B. although on the ſame day ſolemnly demanded, does not come, nor ſay any thing in bar or denial of the aforeſaid action of the ſaid A. whereby the ſaid A. remains againſt the ſaid B. thereupon without defence; therefore it is conſidered that the ſaid A. recover againſt the ſaid B. the ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, and that he ought to recover his damages ſuſtained by reaſon of the treſpaſs and ejectment aforeſaid; and thereupon the ſaid A. here in court freely releaſes unto the ſaid B. as well all and every the damages, coſts, and charges which might or ought to be adjudged to the ſaid A. by reaſon of the treſpaſs and ejectment aforeſaid, as all and every judgment and execution to be had of or for the ſame, therefore the ſaid B. of the damages, coſts, and charges aforeſaid is acquitted; and whereupon the ſheriff of the ſaid county is commanded that without delay he cauſe the ſaid A. to have his poſſeſſion of the ſaid term yet to come of and in the tenement aforeſaid, with the appurtenances, and in what manner he ſhall execute that precept he make appear to our ſaid lord the king at Weſtminſter on ; the ſame day is given by the ſaid A. there, &c.

Nil dicit in ejectment againſt the caſual ejector, with a *remittitur damna*, &c. and an imparlance.

AND now at this day, that is to ſay, on next after in this ſame term, until which day the ſaid B. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as he ſhould be adviſed,

Nil dicit in ejectment when againſt a real defendant, with an imparlance.

viſed, the ſaid A: comes before our lord the king at Weſtminſter by his ſaid attorney, and the ſaid B. although on the ſame day ſolemnly demanded, does not come, nor ſays any thing in bar or denial thereof, and of the aforeſaid action of the ſaid A. whereby the ſaid A. remains againſt the ſaid B. thereupon without defence; therefore it is, &c. that the ſaid A. recover againſt the ſaid B. his ſaid term yet to come of and in the tenement aforeſaid, with the appurtenances, and that he ought to recover againſt the ſaid B. his damages by reaſon of the treſpaſs and ejectment aforeſaid, therefore the ſheriff is commanded that without delay he cauſe the ſaid A. to have his poſſeſſion of the ſaid term yet to come of and in the tenement aforeſaid, with the appurtenances, and in what manner he ſhall execute that writ he make appear to our ſaid lord the king at Weſtminſter in , next after ; but becauſe the ſaid court of our ſaid lord the king now here doth not know what damages the ſaid A. hath ſuſtained by reaſon of the treſpaſs and ejectment aforeſaid, the ſaid ſheriff is alſo commanded that he diligently enquire by the oath of twelve good and lawful men of, &c. what damages the ſaid A. hath ſuſtained, as well by reaſon of the treſpaſs and ejectment aforeſaid as for his coſts and charges laid out by him about his ſuit in this behalf, and that he ſend the ſaid inquiſition that he ſhall take thereupon to our lord the king at Weſtminſter at the day aforeſaid, under his ſeal and the ſeals of thoſe by whoſe oath he ſhall take ſuch inquiſition, together with his ſaid majeſty's ſaid laſt writ to him thereupon directed; the ſame day is given to the ſaid A. there aforeſaid, &c.

Judgment on withdrawing a plea in ejectment againſt a real defendant.

When without an imparlance begin as in caſe on promiſes, only ſay inſtead of *wrong and injury*, *force and injury*.

AT which day, as well the ſaid A. as the ſaid C. by K. B. his attorney, come before our ſaid lord the king at Weſtminſter, and the ſheriff of the county did not return the ſaid writ, nor did he do any thing thereupon, and upon this the ſaid C. relinquiſhing his plea by him above pleaded, ſays that he cannot deny the action of the ſaid A. nor but that he is guilty of the treſpaſs and ejectment aforeſaid in manner and form as the ſaid A. hath above complained againſt him; nor but that he the ſaid A. hath ſuſtained damages by reaſon of the ſaid treſpaſs and ejectment to one ſhilling, and thereupon the ſaid A. prays that as well the poſſeſſion of the ſaid term yet to come of and in the tenement aforeſaid, with the appurtenances, as alſo the damages ſo acknowledged, together with the coſts and charges laid out by him about his ſuit in this behalf may be adjudged to him; therefore it is conſidered, that the ſaid A. recover againſt the ſaid C. his ſaid term yet to come of and in the tenement aforeſaid, with the appurtenances; and thereupon the ſheriff of the ſaid county is commanded that without delay he cauſe the ſaid A. to have his poſſeſſion of his ſaid term yet to come of and in the tenement aforeſaid, with, &c. and in what manner he ſhall execute that precept he make appear to our ſaid lord the king at Weſtminſter on next after ; the ſame day is given to the ſaid A. there, &c.; and it is alſo conſidered that the ſaid A. recover

ver againſt the ſaid C. his damages ſo acknowledged to one ſhilling, and alſo ten pounds ten ſhillings for his ſaid coſts and charges adjudged to the ſaid A. at his requeſt by the ſaid court of our ſaid lord the king now here, which ſaid damages amount in the whole to ten pounds ten ſhillings; and the ſaid C. be taken, &c.

If there are any continuances between the iſſue and judgment enter them.

AT which day the parties aforeſaid come before our ſaid lord the king at Weſtminſter by their ſaid attornies, and the ſheriff of the ſaid county did not return the ſaid writ, nor did he do any thing thereupon; therefore, as before, let a jury thereupon come before our ſaid lord the king at Weſtminſter on next after and alſo neither, &c. to recognize, &c. becauſe as well, &c. the ſame day is given to the ſame parties there, &c.: At which day the ſaid parties come before our ſaid lord the king at Weſtminſter by their ſaid attornies, and the ſheriff of the ſaid county did not return that writ, nor did he do any thing thereupon; therefore, as before, let a jury thereupon come before our ſaid lord the king at Weſtminſter on next after , and who neither, &c. to recognize, &c. becauſe as well, &c. the ſame day, &c.: At which day come as well the ſaid A. by his ſaid attorney as the ſaid B. by K. W. his attorney before our lord the king at Weſtminſter, and the ſheriff of the county did not return that writ, nor did he do any thing thereupon; and upon this the ſaid B. relinquiſhing his ſeveral pleas by him above pleaded, ſaith, he cannot deny the action of the ſaid A. nor but that he the ſaid B. did promiſe and undertake in manner and form as the ſaid A. hath above complained againſt him; therefore it is conſidered that the ſaid A. ought to recover againſt the ſaid B. his damages ſuſtained by reaſon of the not performing the promiſes and undertakings before mentioned; but becauſe, &c. as in a common judgment by *nil dicit*.

Judgment on a plea being withdrawn after iſſue joined, with continuances, and award of a writ of enquiry, the damages not being confeſſed.

First Continuance.

Second Continuance.

Plea withdrawn, and judgment confeſſed.

The like when the damages are aſcertained and confeſſed; the continuances, if any, muſt be the ſame as the laſt, and then proceed as follows:

AT which day *come as well the ſaid A. by his ſaid attorney as the ſaid B. by K. H. his attorney* before our ſaid lord the king at Weſtminſter, and the ſheriff of the ſaid county did not return the ſaid writ, nor did he do any thing thereupon, and upon this the ſaid B. relinquiſhing the plea by him above pleaded, ſaith, that he cannot deny the action of the ſaid A. nor but that he the ſaid B. did promiſe and undertake in manner and form as the ſaid A. hath complained againſt him, nor but the ſaid A. hath ſuſtained damages by reaſon, &c. aforeſaid to pounds; and thereupon the ſaid A. prays, &c. as in a judgment by *cognovit actionem*.

If the defendant comes by the ſame attorney that he pleaded by, then ſay, at which day the ſaid parties come by their ſaid attornies before, &c.

Judgment in a plea being withdrawn after the iſſue roll was carried into the treaſury, with a continuance in debt.

[AFTER the end of the iſſue go on, and in the ſame line as follows]: At which day, before our ſaid lord the king at Weſtminſter, as well the ſaid A. by his ſaid attorney as the ſaid B. in his own proper perſon, do come, and the ſheriff of the ſaid county did not return the ſaid writ, nor did he do any thing thereupon; therefore, as before, let the jury come before our ſaid lord the king at Weſtminſter on, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. the ſame day is given to the ſame parties at the ſame place; at which day, before our lord the king at Weſtminſter, come as well the ſaid A. by his attorney aforeſaid as the ſaid B. in his own proper perſon, and the ſheriff of the ſaid county did not return that writ, nor did he do any thing thereupon; and hereupon the ſaid B. relinquiſhing his plea by him above pleaded, ſaith, that he cannot deny the action of the ſaid A. nor but that the ſaid writing-obligatory is his deed, nor but that he oweth to the ſaid A. pounds, in manner and form as the ſaid A. has complained againſt him; therefore it is conſidered that the ſaid A. recover againſt the ſaid B. the ſaid debt, and alſo pounds, for his damages which he hath ſuſtained as well by reaſon of the detaining that debt as for his coſts and charges by him ſuſtained about his ſuit in this behalf adjudged to the ſaid A. by the court of our ſaid lord the king now here with his aſſent; and the ſaid B. is in mercy, &c.

Judgment againſt an executor after *plene adminiſtravit*, and replication thereto being pleaded and withdrawn before the roll is carried in.

AT which day, the ſaid parties come before our ſaid lord the king at Weſtminſter by their ſaid attornies, and upon this the ſaid C. S. having withdrawn and relinquiſhed the verification of his ſaid plea by him in form aforeſaid above pleaded, ſaith, that he cannot deny the ſaid action of the ſaid K. nor but that the ſaid C. at the time of exhibiting the ſaid bill of the ſaid K. that is to ſay, on, &c. had divers goods and chattels which were of the aforeſaid S. W. at the time of his death in his hands to be adminiſtered, to the value of the debt aforeſaid, in manner and form as the ſaid J. hath above in his ſaid replication alledged; therefore by conſent of the ſaid parties it is conſidered that the ſaid J. recover againſt the ſaid C. his debt aforeſaid, and alſo eight pounds thirteen ſhillings for his damages which he hath ſuſtained as well by reaſon, &c. as for his coſts and charges laid out by him about his ſuit in this behalf adjudged to the ſaid J. at his requeſt by the ſaid court of the ſaid lord the king now here, to be levied of the goods and chattels which were of the ſaid J. W. at the time of his death, in the hands of the ſaid C. to be adminiſtered, if he hath ſo much thereof in his hands to be adminiſtered, and if he hath not ſo much thereof in his hands to be adminiſtered, then the damages aforeſaid to be levied of the proper goods and chattels of the ſaid C.; and the ſaid C. is in mercy, &c.

AND

AND the ſaid defendant, by A. B. his attorney, comes and defends the force, &c. and the ſaid attorney ſaith that he is not inſtructed by the ſaid defendant his client of any anſwer for the ſaid defendant in the ſaid complaint to be given, and ſaith nothing elſe thereto, whereby the ſaid plaintiff remains againſt the ſaid defendant undefended in the ſaid action; therefore it is conſidered that the ſaid plaintiff do recover his ſaid debt and damages occaſioned by the detaining the ſame adjudged by this court, the ſame plaintiff with his conſent to fifty ſhillings; and the ſaid defendant in mercy, &c.

Judgment in debt on *non ſum informatus*.

[IF by *nil dicit*, they ſay, in his proper perſon comes, &c. when, &c. and ſays nothing to bar or obſtruct the action of the ſaid plaintiff, whereby the ſaid plaintiff remains againſt the ſaid defendant undefended therein; therefore it is conſidered, as in the laſt.]

Nil dicit.

AND the ſaid R. H. in his, &c. comes and defends the force, injury, and damages, and whatever elſe he ought to defend when and where the court will conſider thereof; and hereupon the ſaid R. R. prays that the ſaid Richard may make an anſwer to the ſaid declaration, *upon which the ſaid R.* (*a*) gives no anſwer to the ſaid complaint of the ſaid R. and ſays nothing in bar or hindrance of the ſaid action of the ſaid R. whereby the ſaid R. remains againſt the ſaid R. undefended therein; therefore it is conſidered that the ſaid R. do recover his ſaid term of and in the ſaid tenements, with the appurtenances, againſt the ſaid R. and his damages occaſioned by the ſaid treſpaſs and ejectment to be awarded him, &c.; and the ſaid R. of his own accord remits and releaſes to the ſaid R. ſuch damages ſo awarded to him; therefore the ſaid Richard is acquitted of ſuch damages; and the ſaid R. prays a writ of our ſovereign lord the king to be directed to the ſheriff of the ſame county to cauſe him to have his poſſeſſion of his ſaid term yet to come and unexpired of and in the ſaid tenements, with the appurtenances, and it is granted to him, &c. returnable on, &c.

Final judgment by *nil dicit* in ejectment againſt the caſual ejector, with remittitur of damages.

(*a*) If by attorney, ſay, upon which the ſaid attorney of the ſaid R. H. ſaith he is not inſtructed by the ſaid R. H. his client to give any anſwer to the ſaid complaint, &c.

AND the ſaid defendant, by A. B. his attorney, comes and defends the force and injury when, &c. and the ſaid attorney ſaith that he is not inſtructed by the ſaid defendant his client of any anſwer for the ſaid defendant in the ſaid complaint to be given, and ſays nothing elſe thereto, whereby the ſaid plaintiff remains againſt the ſaid defendant undefended in the ſaid action, for which reaſon the ſaid plaintiff ought to recover his ſaid damages againſt the ſaid defendant occaſioned by the ſaid defendant's not performing, &c.

Judgment in caſe by *non ſum informatus*.

made

made by him to the ſaid plaintiff; but becauſe it is not known what damages the ſaid plaintiff hath ſuſtained by reaſon of the not performing, &c. therefore the ſheriff is commanded that he diligently enquire by the oath of twelve honeſt and lawful men of his ſaid county what damages the ſaid plaintiff hath ſuſtained as well by reaſon of the not performing, &c. aforeſaid as for the expences and coſts by him laid out about his ſuit in this behalf, and that the ſheriff cauſe the inquiſition that he takes thereupon to be before his majeſty's juſtices at Weſtminſter on under his own ſeal and the ſeals of thoſe by whoſe oaths he ſhall take ſuch inquiſition: [If by *nil dicit*, ſay, in his own proper perſon comes and defends the force and injury, &c. and ſays nothing to bar or obſtruct the action of the ſaid plaintiff whereby the ſaid plaintiff ought to recover his damages againſt the ſaid defendant occaſioned (and ſo on as before.) If at the ſuit of an executor, ſay thus, occaſioned by the ſaid defendant not performing the ſaid ſeveral, &c. made by him to the ſaid deceaſed in his lifetime. If againſt an executor, ſay, occaſioned by the not performing, &c. made by the ſaid deceaſed in his lifetime to the ſaid plaintiffs. If at the ſuit of an executor againſt an executor, ſay, occaſioned by the not performing, &c. made by the ſaid defendant, deceaſed, in his lifetime, to the ſaid plaintiff, deceaſed, in his lifetime; then the return on, &c.]

Judgment in caſe, with award and return of enquiry.

AND the aforeſaid J. H. by B. C. his attorney, comes and defends the wrong and injury when, &c. and ſays nothing in bar or denial of the action of the ſaid B. whereby the ſaid B. remains againſt the ſaid J. therein undefended, for which reaſon the ſaid B. ought to recover his damages againſt the ſaid J. occaſioned by the ſaid J. not performing, &c. aforeſaid; but becauſe it is not known what damages the ſaid B. hath ſuſtained by occaſion of the not, &c. therefore the ſheriffs of the city of London are commanded, that by the oaths of twelve honeſt and lawful men of their bailiwick they diligently enquire what damages the ſaid B. hath ſuſtained as well by reaſon of the not, &c. aforeſaid as for the coſts and charges laid out by him about his ſuit in this behalf, and that the ſheriffs cauſe the inquiſition which they ſhall make thereon to be before his majeſty's juſtices at Weſtminſter on under their own ſeals and the ſeals of thoſe by whoſe oaths they ſhall make ſuch inquiſition; at which day here cometh the aforeſaid B. by his attorney aforeſaid, and the ſheriffs, namely, R. W. eſquire, and , eſquire, now return here a certain inquiſition taken before them at G. in the city of L. in the, &c. on , by the oaths of twelve honeſt and lawful men, &c. by which it is found that the ſaid B. hath ſuſtained damage by reaſon of the premiſes, beſides his coſts and charges by him about his ſuit in this behalf expended, to , and for his coſts and charges to twenty-four ſhillings and fourpence; therefore it is conſidered that the ſaid B. recover againſt the ſaid J. his damages aforeſaid to ſeventy-ſix pounds

pounds one ſhilling and fourpence, by the inquiſition aforeſaid in form aforeſaid found, and alſo fourteen pounds twelve ſhillings and eightpence adjudged by the ſaid court here to the ſaid B. at his own requeſt for increaſe of his ſaid coſts and charges, which ſaid damages amount in the whole to pounds; and the aforeſaid J. in mercy, &c.

Judgment by default on a *ſcire facias* at ſuit of an executor to revive a judgment obtained in the lifetime of the teſtator.

YORKSHIRE, to wit. It was commanded the ſheriff, whereas J. S. lately deceaſed, lately in the court of our lord the now king, to wit, in the term of , before and his brethren, juſtices of our ſaid lord the king of the C. B. at Weſtminſter, by the conſideration of the ſame, &c. had received againſt J. W. late of W. in the ſaid county of York, as well a certain debt of two hundred pounds as alſo ſeventy pounds which were adjudged to the ſaid J. in the ſame court for his damages which he had ſuſtained by reaſon of the detaining, &c. whereof he is convicted, as by the record and proceedings thereof now remaining in the ſame court before the juſtices of our ſaid lord the king here, to wit, at Weſtminſter aforeſaid, manifeſtly appears: And whereas the ſaid J. after judgment aforeſaid in form aforeſaid, at L. aforeſaid, in the county of York aforeſaid, made his laſt will and teſtament in writing, and thereof did appoint and ordain W. D. his executor, and afterwards there died; and although judgment thereof be rendered, yet the execution of the debt and damages aforeſaid doth yet remain to be made, as our ſaid lord the king hath received information from the ſaid W.; and becauſe our ſaid lord the king is willing that thoſe things which in the ſame court are rightly acted ſhould have due execution, therefore our ſaid lord the king commanded the ſheriff of the ſaid county of York, that by honeſt and lawful men of his bailiwick he ſhould cauſe the ſaid J. to know that he ſhould be before the juſtices of our ſaid lord the king at Weſtminſter aforeſaid on, &c. to ſhew if he had or know of any thing to ſay for himſelf why the ſaid W. ought to have execution againſt the ſaid J. for the debt and damages aforeſaid, according to the form and effect of the recovery aforeſaid, if to him it ſhall ſeem expedient; and now here at this day, on the, &c. the ſaid W. comes here by G. J. his attorney, and offered himſelf the fourth day againſt the ſaid J. of the plea aforeſaid, and the ſheriff, namely, , bart. there returned that by virtue of the aforeſaid writ to him directed he hath made known to the ſaid J. by J. M. and J. G. honeſt and lawful men of their bailiwick, that he the ſaid J. before the ſaid juſtices of our ſaid lord the king at the day and place above mentioned, as he was thereby commanded, and the ſaid J. B. being ſo ſummoned, and at the day aforeſaid ſolemnly called, cometh not, but maketh default; and hereupon the ſaid W. prays the execution may be adjudged to him againſt the ſaid J. for the ſaid debt and damages; therefore it is conſidered and adjudged that the ſaid W. have execution

execution againſt the ſaid J. for the debt and damages aforeſaid by the debt of the ſaid J. &c.

Entry of judgment upon a *ſcire facias*.

YORKSHIRE, to wit. Whereas C. S. lately in the court of our lord the king, to wit, in the term of, &c. on , before and his brethren there, juſtices of our ſaid lord the king of the C. B. at Weſtminſter, by the conſideration of the ſame, &c. had recovered againſt J. W. late of , in the ſaid county of York, gentleman, as well a certain debt of ſeventeen pounds as alſo fifty ſhillings which were adjudged to the ſaid C. in the ſaid court for his damages which he had ſuſtained by reaſon of the detaining that debt, whereof he is convicted, as by the record and proceedings thereof now remaining in the ſame court before the juſtices of our ſaid lord the king here, to wit, at Weſtminſter, manifeſtly appears; nevertheleſs execution of the ſaid judgment yet remains to be done, as our lord the king hath received information from the ſaid court; and becauſe our ſaid lord the king is willing that thoſe things in our ſame court are rightly done ſhould have a due execution, therefore our ſaid lord the king commanded the ſheriff of the ſaid county of York, that by honeſt and lawful men of his bailiwick he ſhould cauſe the ſaid J. to know that he ſhould be before our, &c. here, to wit, at Weſtminſter, on , to ſhew if he had or knows any thing to ſay for himſelf why the ſaid C. ought not to have execution againſt him for the debt and damages aforeſaid, according to the form and effect of the recovery aforeſaid, if to him it ſhall ſeem expedient; and now here at this day, to wit, on , the ſaid C. cometh here by N. M. his attorney, and offered himſelf the fourth day againſt the ſaid J. of the plea aforeſaid, and he being ſolemnly called cometh not, and the ſheriff, namely, , now returneth that the ſaid J. O. hath nothing in his bailiwick whereby or by which he can ſummons him, nor is he found in the ſame; and hereupon the ſaid C. prays that execution may be adjudged to him againſt the ſaid J. for the debt and damages aforeſaid; therefore it is conſidered that the ſaid C have execution againſt the ſaid J. for the debt and damages aforeſaid by the default of the ſaid John, &c.

Entry on the roll and award of execution on a *ſcire facias* to revive a judgment returned *nihil*.

BERKSHIRE, to wit. It was commanded the ſheriff, whereas J. Y. deceaſed, lately in the court of our lord the preſent king, that is to ſay, in Trinity, &c. on , before and his brethren, his ſaid majeſty's juſtices of the C. B. at W. by the conſideration of the ſame court, had recovered againſt G. C. late of the Univerſity of Oxford, in the county of Oxford, clerk, as well a debt of four hundred pounds as fifty ſhillings which in the ſame court were adjudged to the ſaid J. for his damages which he had ſuſtained by reaſon of the detaining the ſaid debt, whereof is convicted, as by the record and proceedings thereof now remaining in his ſaid majeſty's ſaid court before his ſaid majeſty's juſtices

juſtices at W. aforeſaid manifeſtly appears: And whereupon the ſaid J. after the ſaid judgment was in form aforeſaid recovered, at R. in the county of B. aforeſaid, made his laſt will and teſtament in writing, and thereof did appoint and ordain M. his wife, ſince deceaſed, ſole executrix, and afterwards died (the debt and damages aforeſaid, or any part thereof, being not ſatisfied), after whoſe death ſaid M. took upon herſelf the, &c. of the will of the ſaid J. &c. proved the ſame in due form of law, and afterwards the ſaid M. there made her laſt will and teſtament in writing, and by the ſame conſtituted W. R. executor thereof, and afterwards there died, the debt and damages aforeſaid, or any part thereof, not being ſatisfied; and although the ſaid judgment was rendered in form aforeſaid, yet execution for the debt and damages aforeſaid doth yet remain to be made, as on the behalf of the ſaid William in his majeſty's ſaid court his ſaid majeſty hath received information; whereupon the ſaid W. prayeth his ſaid majeſty to grant him a fit remedy in this behalf, and his ſaid majeſty being willing that thoſe things which are rightly acted in his ſaid majeſty's ſaid court ſhould be put in execution, therefore his ſaid majeſty commanded the ſheriff of the ſaid county of B. that by honeſt and lawful men of his bailiwick he ſhould make known to the ſaid C. that he ſhould be before his ſaid majeſty's juſtices at Weſtminſter on to ſhew if he had or knew any thing to ſay for himſelf why the ſaid W. ought not to have execution againſt the ſaid G. for the debt and damages aforeſaid, according to the form and effect of the ſaid recovery, if it ſhould ſeem meet for him ſo to do; and now here at this day the ſaid W. cometh here by G. C. her attorney, and offered herſelf the fourth day againſt the ſaid G. of the plea aforeſaid, &c. and the ſaid G. although ſolemnly called, doth not come, and the ſheriff, namely, A. B. eſquire, now returneth that the ſaid G P. hath not any thing in his bailiwick by which he can cauſe him to know as by the ſaid writ is commanded him, nor is he to be found in the ſame; and hereupon the ſaid W. brings here in court as well the letters teſtamentary of the ſaid James as the letters teſtamentary of the ſaid M. whereby it ſufficiently appears to the ſaid court here that the ſame W. is executor of the ſaid will of the ſaid M. and thereof hath adminiſtration, &c. and that ſhe the ſaid M. was executrix of the will of the ſaid J. and thereof had the adminiſtration, &c.; and the ſaid W. prays execution againſt the ſaid G. for the debt and damages aforeſaid recovered in form aforeſaid to be adjudged to him, &c.; therefore it is conſidered that the ſaid W. have execution againſt the ſaid G. for the debt and damages aforeſaid by the default of the ſaid G. &c.

Judgment by warrant of attorney on *non ſum informatus*.

GLOUCESTERSHIRE, to wit. J. G. late of, &c. was ſummoned to anſwer H. L. widow, of a plea that he render to her three hundred pounds which he owes to and unjuſtly detains from her, &c; and whereupon the ſaid H. by J. S. her attorney, ſaith,

ſaith, that whereas the ſaid J. on the firſt day of June, in the year of Our Lord 1742, at J. in the county aforeſaid, did borrow of the ſaid H. the ſaid three hundred pounds, to be paid to the ſame H. when he ſhould be thereunto requeſted; nevertheleſs the ſaid J. although often requeſted, hath not yet rendered to the ſaid H. the ſaid three hundred pounds, but hath hitherto wholly refuſed, and ſtill doth refuſe to render the ſame to her, whereby ſhe ſaith that ſhe is injured, and hath ſuſtained damages to the value of forty pounds; and thereupon ſhe brings this ſuit, &c.

And the ſaid J. by R. G. his attorney, comes and defends the wrong and injury when, &c. and the ſame attorney ſays that he is not informed by the ſaid J. of any anſwer to be given for the ſaid J. to the ſaid H. to the declaration aforeſaid, and ſays nothing more thereto, whereby the ſaid H. remains againſt the ſaid J. thereof undefended; therefore it is conſidered that the ſaid H. do recover againſt the ſaid J. her aforeſaid debt and damages by reaſon of the detaining that debt to ſixty-three ſhillings by the court here adjudged to the ſame H. with our conſent; and the ſaid J. is in mercy, &c.

Judgment by *motuatus* on warrant of attorney, B. R.

BERKSHIRE, to wit. Be it remembered, that on at Weſtminſter came T. N. gentleman, by H. W. his attorney, and brought here into the court of our ſovereign lord the king then there his certain bill againſt W. N. being in the cuſtody of the marſhal of the Marſhalſea of our lord the king before the king himſelf in a plea of debt, and there are pledges for the proſecution thereof, to wit, John Doe and Richard Roe, which ſaid bill follows in theſe words, to wit, Berkſhire, to wit: J. F. gentleman, complains of W. N. eſquire, being in the cuſtody of the marſhal of the Marſhalſea of our ſovereign lord the king before the king himſelf of a plea that he render to him two hundred pounds of lawful money of Great Britain, which he owes to and unjuſtly detains from him, for that whereas the ſaid W. on , in the year of Our Lord , at Weſtminſter, in the county aforeſaid, did borrow of the ſaid J. the aforeſaid two hundred pounds, to be paid to the ſaid J. when he ſhould be thereunto requeſted; nevertheleſs the ſaid W. although often requeſted, the aforeſaid two hundred pounds, or any part thereof, to the ſaid J. hath not rendered, but hath hitherto wholly refuſed, and ſtill doth refuſe to render the ſame to him, whereby the ſame J. ſaith he is injured, and hath ſuſtained damages to the value of thirty pounds; and thereupon, &c.

And the aforeſaid W. by R. J. his attorney, comes and defends the wrong and injury when, &c. and the aforeſaid J. prays that the ſaid W. may anſwer the ſaid bill of the ſaid J. whereupon the ſaid attorney of the ſaid W. ſays that he is not informed by the ſaid W. of any anſwer to be given for the ſaid W. to the ſaid J. in the premiſes,

Premiſes, and ſays nothing elſe thereto in bar or preclusion of the ſaid action of the ſaid J. whereby the ſaid J. remains againſt the ſaid W. therein undefended; therefore it is conſidered that the ſaid J. do recover againſt the ſaid W. his debt aforeſaid, and alſo ſixty-three ſhillings for his damages which he hath ſuſtained as well by reaſon of detaining of that debt as for his coſts and charges by him about his ſuit in this behalf expended to the ſaid J. by the court of our ſaid lord the king now here with his own aſſent; and the aforeſaid W. is in mercy, &c.

Judgment on *mutuatus* by warrant of attorney againſt an adminiſtratrix, C. B.

OXFORDSHIRE, to wit. Ann A. late of, &c. in the county aforeſaid, widow, adminiſtratrix of the goods and chattels, rights, and credits which was of W. A. her late huſband, deceaſed, at the time of his death, who died inteſtate, was ſummoned to anſwer W. A. gentleman, of a plea that ſhe render to him eighty-ſix pounds twelve ſhillings, which ſhe unjuſtly detains from him, &c.; and whereupon the ſaid W. A. by T. S. his attorney, ſaith, that whereas the ſaid J. A. in his lifetime, to wit, on, &c. 1741, at B. in the county aforeſaid, did borrow of the ſaid W. the ſaid eighty-ſix pounds twelve ſhillings, to be paid to the ſaid W. A. when he ſhould be thereto afterwards requeſted; yet the ſaid J. A. in his lifetime, and the ſaid A. ſince his deceaſe, although often requeſted, have not, nor hath either of them paid the ſaid ſum of money, or any part thereof, to the ſaid W. A. but to pay him the ſame have hitherto wholly refuſed, and the ſaid A. ſtill doth refuſe to the ſaid W. A. his damages of ten pounds; and therefore, &c.: And the ſaid A. by C. C. her attorney, comes and defends the wrong and injury when, &c. and the ſame attorney ſays that he is not informed by the ſaid A. of any anſwer to be given for the ſaid A. to the ſaid W. A. to the declaration aforeſaid, and ſays nothing in bar thereto, whereby the ſaid W. A remains againſt the ſaid A. thereof undefended; therefore it is conſidered that the ſaid W. A. doth recover againſt the ſaid A. as adminiſtratrix in form aforeſaid, the ſaid debt of eighty-ſix pounds twelve ſhillings, and his damages by reaſon of the detaining of the ſame debt to ſixty ſhillings, adjudged to the ſaid W. A. and with his aſſent by the court here to be levied of the goods and chattels which were of and belonging to the ſaid J. A. at the time of his death, being in the hands of the ſaid A. to be adminiſtered, and if ſhe hath not then the damages to be levied of the proper goods and chattels of the ſaid A.; and the ſaid is in mercy, &c.

Entry of judgment by warrant of attorney in debt on bond where the bond is dated in vacation, ſubject to the term it is a judgment of.

LANCASHIRE, to wit. Be it remembered, that on Wedneſday next after three weeks of the Holy Trinity, in this ſame term, before the lord the king at Weſtminſter, came E. B. widow, by H. J. W. her attorney, and brought into the court of

our

our lord the king then there her certain bill againſt W. B. being in the cuſtody of the marſhal of the Marſhalſea of the lord the king, before the king himſelf, of a plea of debt, and there are pledges of proſecution, to wit, J. D. and Richard Roe, which ſaid bill follows in theſe words, to wit, Lancaſter, to wit: E. B. widow, complains of W. B. being, &c. of our lord the king, before the, &c. of a plea that he render to her one hundred and thirty pounds, which he owes and unjuſtly detains from her, &c. for this, to wit, that whereas the ſaid W. on the thirteenth day of June, in, &c. 1765, at P. in the ſaid county of L. by his certain obligation then and there made, and ſealed with his ſeal, and delivered, but bearing date the twenty-ſixth day of Auguſt, in the ſaid year 1765, which ſaid writing obligatory is now ſhewn to the court of our ſaid lord the king now here, became held and firmly bound to the ſaid E. in the ſum of one hundred and thirty pounds, to be paid unto the ſaid E. when he the ſaid W. ſhould be thereunto requeſted; nevertheleſs the ſaid W. although often requeſted, the ſaid ſum of one hundred and thirty pounds, or any part thereof, to the ſaid E. hath not rendered, but the ſame to her to render hath hitherto altogether denied, and ſtill doth deny, whereupon the ſaid E. ſaith that ſhe is damnified to the value of thirty pounds; and thereupon ſhe bringeth, &c.: And the ſaid W. by W. G. his attorney, comes and defends the wrong and injury when, &c. and the ſaid E. prays that the ſaid W. may anſwer to her ſaid declaration; whereupon the ſaid attorney of the ſaid W. ſays that he is not informed by the ſaid W. of any anſwer to be given for the ſaid W. to the ſaid E. in the premiſes, nor does he ſay any thing elſe in bar or preclusion of the ſaid action of the ſaid E. by reaſon whereof the ſaid W. remains therein undefended againſt the ſaid W.; therefore it is conſidered that the ſaid E. do recover againſt the ſaid W. her ſaid debt, and alſo ſixty-three ſhillings for her damages which ſhe hath ſuſtained as well by occaſion of the detaining of that debt as for her coſts and charges by her about her ſuit in this behalf expended, by the court of our ſaid lord the king now here adjudged to the ſaid E. by her aſſent; and the ſaid W. in mercy, &c.

Interlocutory judgment, with award and return of enquiry, and final judgment thereon.

OXFORDSHIRE, to wit. Be it remembered, that heretofore, that is to ſay, in the term of, &c. W. J. came before our lord the king at Weſtminſter, by K. W. his attorney, and brought into the ſaid court of our ſaid lord the king then there his bill againſt , clerk, being in the, &c. of our ſaid lord the king, in a plea of treſpaſs on the caſe, and there are pledges for the proſecution, to wit, John Doe and Richard Roe, which ſaid bill follows in theſe words, to wit, Oxfordſhire, &c. W. J. complains of W. B. clerk, &c. and now at this day, that is to ſay, on , in this ſame term, until which day the ſaid W. B. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as he ſhould be adviſed, the ſaid W. T. comes before our ſovereign

lord the king at Weſtminſter, by his ſaid attorney; and the ſaid W. T. comes before our lord the king at Weſtminſter, by his ſaid attorney; and the ſaid W. B. although on the ſame day ſolemnly demanded does not come, nor ſays any thing in bar or denial of the ſaid action of the ſaid W. T. whereby the ſaid W. T. remains againſt the ſaid W. B. undefended; therefore it is conſidered that the ſaid W. T. ought to recover againſt the ſaid W. B. his damages ſuſtained by reaſon of the ſaid W. B. not performing the before mentioned promiſes and undertakings, but becauſe his ſaid majeſty's court now here doth not know what damages the ſaid W. T. hath in this behalf ſuſtained; therefore the ſheriff of the ſame county of O. is commanded that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the ſaid W. T. hath ſuſtained, as well by reaſon of the not performing the promiſes and undertakings aforeſaid, as for his coſts and charges laid out by him about his ſuit in that behalf, and that he ſend the inquiſition which he ſhall take thereon to our ſaid lord the king at Weſtminſter, on under his ſeal and the ſeals of thoſe by whoſe oaths he ſhall take ſuch inquiſition, together with the king's writ to him thereupon directed; the ſame day is given to the ſaid W. B. there, &c. at which day the ſaid W. T. comes here before our ſaid lord the king at Weſtminſter, by his ſaid attorney, and the ſheriff, namely J. J. eſquire, ſheriff of the ſame county of O. now returneth here a certain inquiſition taken before him at the houſe of G. K. known and called by the name of, &c. on , on the oath of twelve good and lawful men of his bailiwick, by which it is found that the ſaid W. T. hath ſuſtained damages by reaſon of the ſaid W. B. not performing the ſeveral promiſes, &c. &c. aforeſaid, beſides his coſts and charges laid out by him about his ſuit in that behalf to pounds, and for the ſaid coſts and charges to ſixpence; therefore it is conſidered that the ſaid W. T. recover againſt the ſaid W. B. his ſaid damages found by the ſaid inquiſition, and alſo pounds adjudged to the ſaid W. T. at his requeſt by the court of the ſaid lord the king now here for the increaſe of his ſaid coſt and charges, which ſaid damages amount in the whole to pounds, and th ſaid W. B. is in mercy, &c.

JONES, on demurrer of HIBB, *againſt* NOTITLE. } UNLESS the tenant in poſſeſſion of the premiſes in queſtion ſhall appear and plead to iſſue on Monday next after the end of the term, let judgment be entered for the plaintiff againſt the now defendant Notitle by default upon the motion of Mr. R. By the Court.

Final judgment in ejectment againſt caſual ejector with *remittitur damna*, and with an imparlance from Eaſter to Michaelmas.

GLOUCESTERSHIRE, to wit. Be it remembered, that heretofore, that is to ſay, in the term of Eaſter laſt, J. J. came before our lord the king at Weſtminſter, by K. W. his attorney, and brought into the court of our ſaid lord the king then there his

Memorandum of a former term.

bill againſt M. M. being in cuſtody of the marſhal of the Marſhalſea of our ſaid lord the king in a plea of treſpaſs and ejectment, and there are pledges for the, &c. to wit, J. D. and R. R. which ſaid bill follows in theſe words, Glouceſterſhire, to wit; J. J. complains of M. N. being in the, &c. of our lord the king, before the king himſelf, for this, to wit, that whereas, &c.

Judgment. And now at this day, that is to ſay, on in this ſame term, until which day the ſaid M. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as he ſhould be adviſed, the ſaid J. comes before our ſaid lord the king at Weſtminſter, by his ſaid attorney, and prays that the aforeſaid M. may anſwer to his declaration aforeſaid; and the ſaid M. although on the ſame day ſolemnly demanded, does not come, nor ſays any thing in bar or denial of the aforeſaid action of the ſaid J. J. whereby the ſaid J. J. remains againſt the ſaid N. thereupon without defence; therefore it is conſidered that the ſaid J. J. recover againſt the ſaid M. his ſaid term yet to come of and in his tenements, with the appurtenances, and that he ought to recover his damages ſuſtained by reaſon of the treſpaſs and ejectment as aforeſaid.

And the aforeſaid J. D. prays the writ of our lord the king to be directed to the ſheriff of M. aforeſaid, to cauſe him to have his full poſſeſſion of and in the tenements aforeſaid, with the appurtenances, and it is granted to him returnable before our lord the king at Weſtminſter, on ; the ſame day is given to the parties at the ſame place; and thereupon the ſaid J. J. freely here in court remits and releaſes to the ſaid M. as well *all and every ſuch* the damages, coſts, and charges, which might or ought to be adjudged to the aforeſaid J. J. (in that behalf) *by reaſon of the treſpaſs and ejectment* aforeſaid, as all *and every* ſuch judgments and executions to be had of or for the ſame; therefore the ſaid M. is acquitted from thoſe damages, coſts, and charges, and thereof is without day and may depart the court, whereupon the ſheriff of the ſaid county is commanded, that without delay he cauſe the ſaid J. J. to have his poſſeſſion of the ſaid term yet to come of and in the ſaid tenements, with the appurtenances, and in what manner he ſhall have executed that precept, he make appear to our ſaid lord the king at Weſtminſter, on ; the ſame day is given to the ſaid, &c.

Cognovit acknowledged in caſe on promiſes and final judgment thereon, declaration of Eaſter, 16. Geo. II. and judgment in Hilary, 17. Geo. II.

AND the ſaid T. in his proper perſon comes and defends the wrong and injury when, &c. and prays leave to imparl here until , and he hath it, &c. the ſame is given to the ſaid E. to be here, &c. at which day here come as well the ſaid E. by his ſaid attorney, as the ſaid J. in his proper perſon; and the ſaid E. prays that the ſaid J. may anſwer to the bill aforeſaid, &c. and upon this the ſaid J. defends the wrong and injury when, &c. and ſays that he cannot deny the ſaid action of the ſaid E. nor but that he promiſed

miſed and undertook in manner and form as the ſaid E. hath above complained againſt him, nor but that the ſaid E. hath ſuſtained damages by reaſon of the not performing the, &c. aforeſaid, to ſeven pounds three ſhillings and eightpence, as the ſaid E. hath in her declaration above ſuppoſed, and thereupon the ſaid E. prays that the damages ſo acknowledged, together with her coſts and charges laid out by her about her ſuit in this behalf may be adjudged to her; therefore it is conſidered that the ſaid E. recover her damages ſo acknowledged to ſeven pounds three ſhillings and eightpence, and alſo ſix pounds ten ſhillings, for her coſts and charges adjudged to the ſaid E. at her requeſt by the court here, which ſaid damages amount in the whole to thirteen pounds thirteen ſhillings and eightpence; and the ſaid J. is in mercy, &c.

Entry of judgment by default at ſuit of adminiſtratrix on two *ſcire facias* returned *nihil*, with a *cur. adv. vult.*

OUR lord the king hath ſent to the ſheriff of London (the county the writ was directed to) his writ cloſed in theſe words, to wit, George the Second, &c. [*As in the writ to the end*] on , at which day the ſaid E. came before our ſaid lord the king at Weſtminſter in his proper perſon, and the ſheriffs, to wit, and returned the ſaid writ directed to them as aforeſaid in manner and form following, that is to ſay, *that the ſaid J. W. the younger had nothing in their bailiwick where or by which they could make known to him as by the ſaid writ they were commanded, nor was the ſaid J. found in the ſame*, and the ſaid J. did not come; therefore as before the ſheriffs were commanded, that by honeſt and lawful men of their bailiwick, they ſhould make it known to the ſaid J. that he be before our ſaid lord the king at Weſtminſter aforeſaid, on , to ſhew in form aforeſaid if, &c. the ſame day is given to the ſaid E. there, &c. at which day the ſaid E. comes before our ſaid lord the king at Weſtminſter aforeſaid in her proper perſon; and the ſheriffs now return as before, that the ſaid J. W. hath nothing in their bailiwick where or by which they could make known to him as by the ſaid writ they were commanded, nor is the ſaid J. found in the ſame, and the ſaid J. although ſolemnly demanded, comes not, but makes default; and hereupon the ſaid E. brings here into court the letters teſtamentary of the ſaid J. whereby it ſufficiently appears to the ſaid court here that ſhe the ſaid E. is executrix of the ſaid will of the ſaid J. and thereof hath adminiſtration, &c. but becauſe the ſaid court of our ſaid lord the king now here is not yet adviſed of their judgment to be rendered of and upon the premiſes, a day is further given to the ſaid E. to come before our ſaid lord the king at Weſtminſter, until next after , to hear their judgment thereof, becauſe the ſaid court of our ſaid lord the king is not yet adviſed, &c. at which day the ſaid E. comes before our ſaid lord the king at Weſtminſter in her proper perſon, and all and ſingular the premiſes being ſeen and fully underſtood, it is conſidered that the ſaid E. [If an ejectment, ſay have his poſſeſſion of his ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances] have execution

Recite the return exactly.

Purſue the return of the *alias ſci fa.*

Add this if at the ſuit of an executor.

againſt the ſaid J. for the damages aforeſaid, according to the force, form, [If againſt bail, ſay, and effect of the recognizance aforeſaid] and effect of the ſaid recovery by the default of the ſaid J. &c.

Entry of judgment by default on a *ſcire facias* and *ſcire feci* returned in ejectment againſt the caſual ejector, with a *cur. adv. vult.*

OUR lord the king hath ſent to the ſheriffs of L. his writ cloſed in theſe words, to wit, George the Third, &c. [*And ſo on to the end of the writ*] at which day the ſaid J. comes before our lord the king in his proper perſon, and the ſheriff, to wit, E. M. eſquire, at this day returned the ſaid writ directed to him as aforeſaid in manner and form following, that is to ſay, that by virtue of the ſaid writ to him directed, he had by good and lawful men of his bailiwick made known to J. B. and M. A. widow, tenants in poſſeſſion of all the premiſes in the ſaid writ mentioned, that they be before our ſaid lord the king at the day and place in the ſaid writ mentioned, to ſhew if they had or knew of any thing therefore to ſay for themſelves why the ſaid J. D. ſhould not have his poſſeſſion of the term in the ſaid writ mentioned then to come of and in the tenements, with the appurtenances, in the ſaid writ mentioned, according to the form of the ſaid writ, as by the ſaid writ he was commanded; and the ſaid J. B. and M. A. though warned and ſolemnly demanded come not, but make default, and thereupon the ſaid J. D. prays his poſſeſſion of the ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, according to the force, &c. to be adjudged to him, &c. becauſe the ſaid court of our ſaid lord the king now here is not yet adviſed what judgment to give of and upon the premiſes, a day is further given to the ſaid J. D. to come before our ſaid lord the king at Weſtminſter, until to hear their judgment thereof, becauſe the ſaid court of our ſaid lord the king now here is not yet adviſed, &c. at which day the ſaid J. D. comes before our ſaid lord the king at Weſtminſter in his proper perſon, and thereupon all and ſingular the premiſes aforeſaid being ſeen and fully underſtood, it is conſidered that the ſaid J. D. have his poſſeſſion of his ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, according, &c. by the defaults of the ſaid J. B. and M. A. &c.

Interlocutory judgment and imparlance, with award of writ of inquiry to the chancellor of Lancaſter.

AND now at this day, that is to ſay, on in this ſame term, until which day the ſaid J. had leave to imparl to the aforeſaid bill, and then to anſwer the ſame as he ſhould be adviſed, as well the ſaid Ann by her ſaid attorney, as the ſaid J. in his own proper perſon, according to the form of the ſtatute in ſuch caſe, &c. do come before our ſaid lord the king at Weſtminſter; and the ſaid J. defends the wrong and injury when, &c. and ſays nothing in bar or denial of the aforeſaid action of the ſaid Ann, whereby the ſaid A. remains therein againſt the ſaid J. without defence; therefore it is conſidered that the ſaid A. ought to recover againſt the ſaid J. her

her damages ſuſtained by reaſon of the ſaid J. not performing the before-mentioned promiſes and undertakings, but becauſe the ſaid court of our ſaid lord the king now here doth not know what damages the ſaid A. hath in this behalf ſuſtained, therefore the chancellor of the ſaid county palatine of Lancaſter is commanded, that he by virtue of his ſaid majeſty's writ of the ſaid county duly to be made out, and to be directed to the ſheriff of the ſaid county palatine, do command the ſame ſheriff that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the ſaid A. hath ſuſtained, as well by reaſon of the not performing the promiſes and undertakings aforeſaid, as for her coſts and charges laid out by her about her ſuit in this behalf, and that the ſaid chancellor ſend the inquiſition, which the ſaid ſheriff ſhall take thereupon to our ſaid lord the king at Weſtminſter, on , under the ſeal of the ſaid ſheriff, and the ſeals of thoſe by whoſe oath the ſaid ſheriff ſhall take ſuch inquiſition, together with the ſaid writ to the ſaid chamberlain thereon directed; the ſame day is given to the ſaid J. there, &c.

AND the ſaid C. by J. P. his attorney, comes and defends the wrong and injury, &c. and ſays nothing in bar or denial of the aforeſaid action of the ſaid A. whereby the ſaid A. remains therein undefended by the ſaid C.; therefore it is conſidered that the ſaid A. recover againſt the ſaid C. his ſaid debt and damages occaſioned by the detaining of the ſaid debt to pounds adjudged to the ſaid A. at his requeſt by the court here; and the ſaid C. is in mercy, &c. *Nil dicit* in an action in C. B.

AND the ſaid C. by his attorney, comes and defends the wrong and injury when, &c. and the ſaid A. prays that the ſaid C. may anſwer to the aforeſaid declaration of him the ſaid A. whereupon the ſaid attorney of the ſaid C. ſays that he is not informed by the ſaid C. of any anſwer to be given to the ſaid A. for him the ſaid C. to the complaint aforeſaid, and ſays nothing more thereto whereby the ſaid A. remains againſt the ſaid C. without defence; therefore it is conſidered that the ſaid A. recover againſt the ſaid C. his debt aforeſaid, and his damages occaſioned by the detaining of the ſaid debt to pounds adjudged by the court here to the ſaid A. at his requeſt; and the ſaid C. is in mercy, &c. *Non ſum informatus* in debt.

AND the ſaid C. by his attorney, comes and defends the wrong and injury when, &c. and ſays that he cannot deny the aforeſaid action of the ſaid A. nor but that he owes to the ſaid A. the aforeſaid pounds in manner and form as the ſaid A. hath above declared againſt him; therefore it is conſidered that the ſaid A. recover, &c. [*As before.*] *Cognovit actionem* in debt.

The like in debt on bond. [As above, till when, &c.] And ſays that he cannot deny the aforeſaid action of the ſaid A. nor but that the writing obligatory aforeſaid is his deed, nor but that he owes to the ſaid A. the ſaid pounds in manner and form as the ſaid A. &c.

Nil dicit in *aſſumpſit.* The ſame as above, only inſtead of the words, *by reaſon of the not performing the ſeveral promiſes and undertakings before mentioned*, ſay by reaſon of the premiſes aforeſaid;

If in treſpaſs, then ſay "by reaſon of the treſpaſs aforeſaid;"

If in aſſault, then ſay "by reaſon of the treſpaſs and aſſault aforeſaid;"

If in aſſault and impriſonment, then ſay "by reaſon of the treſpaſs and aſſault and impriſonment;"

If in covenant, then ſay "by reaſon of the breaking of the covenant aforeſaid."

Rolls and judgments. AND the ſaid C. in his proper perſon comes and defends the wrong and injury when, &c. [If againſt an unprivileged perſon, or the judgment be entered the ſame term with the declaration, leave out this imparlance, and in the former caſe let the defendant come by *attorney*, and not in *perſon*], and prays leave to imparl here until next after , and he hath it, &c. the ſame is given to the ſaid A. to be here, &c. at which day here comes as well the ſaid A. by his ſaid attorney, as the ſaid C. in his proper perſon; and the ſaid A. prays that the ſaid C. may anſwer to the bill aforeſaid, &c. and upon this the ſaid C. defends the, &c. when, &c. and ſays that he cannot deny the ſaid action of the ſaid A. nor but that he promiſed and undertook in manner and form as the ſaid A. hath above complained againſt him, nor but that the ſaid A. hath ſuſtained damages by reaſon of the not performing the promiſes and undertakings aforeſaid to pounds, as he the ſaid A. hath in his bill (or declaration, as the caſe is,) above ſuppoſed, and therefore the ſaid A. prays that the damages ſo acknowledged, together with his coſts and charges laid out by him about his ſuit in this behalf may be adjudged; therefore it is conſidered that the ſaid A. recover againſt the ſaid C. his damages ſo acknowledged to pounds, and alſo for his coſts and charges adjudged to the ſaid A. at his requeſt by the ſaid court here, which ſaid damages amount in the whole to , and the ſaid C. is in mercy, &c.

Signed.

Mercy.

The like in debt for rent againſt an attorney for parcel of the debt, &c. remainder for the reſidue. [As before till], And ſays that he cannot deny the aforeſaid action of the ſaid A. nor but that he owes to the ſaid A. the ſum

of

of thirty-five pounds and ten ſhillings, parcel of the ſaid thirty-nine pounds, in manner and form as the ſaid A. [If againſt a common perſon, then inſtead of this, ſay *hath above declared againſt him*] hath by his ſaid bill above alledged; therefore it is conſidered that the ſaid A. recover againſt the ſaid C. the ſum of , parcel of the debt aforeſaid, and his damages occaſioned by the detaining of the ſaid ſum of to adjudged by the court here to the ſaid A. at his requeſt; and the ſaid C. is thereof in mercy, &c. and hereupon the ſaid A. freely here in court remits to the ſaid C. three pounds ten ſhillings, the reſidue of the debt aforeſaid; whereupon the ſaid C. is acquitted of the ſaid three pounds ten ſhillings in form aforeſaid remitted, and may go thereof without day.

Upon a demurrer to the plaintiff's replication for the plaintiff

AT which day come here as well the ſaid A. as the ſaid C. by their attorneys aforeſaid, and hereupon the aforeſaid plea of the ſaid A. above pleaded in reply being ſeen and fully underſtood by the juſtices here, it appears to the ſaid juſtices here that the ſaid plea of the ſaid A. and the matter therein contained are good and ſufficient in law for the ſaid A. to have and maintain his aforeſaid action againſt the ſaid C. as the ſaid A. hath above alledged; therefore it is conſidered, &c.

Nil dicit in ejectment in C. B.

AND the ſaid C. by his attorney, comes and defends the force and injury when, &c. and ſays nothing in bar, &c. of the aforeſaid action of the ſaid A. whereby the ſaid A. remains therein undefended by the ſaid C. therefore it is conſidered that the ſaid A. recover againſt the ſaid C. his ſaid term yet to come of and in the ſaid tenements aforeſaid, with the appurtenances, and that the ſaid A. ought to recover his damages by reaſon of the ſaid treſpaſs and ejectment aforeſaid, but becauſe the court of our ſaid lord the king here doth not know what damages the ſaid A. hath ſuſtained by reaſon, &c. the ſheriff is commanded, that he diligently inquire by the oath of twelve good and lawful men of his bailiwick, what damages the ſaid A. hath ſuſtained by reaſon of the treſpaſs and ejectment aforeſaid, as for his coſts and charges laid out by him about his ſuit in this behalf, and that he ſhall make appear by the inquiſition which he ſhall take thereof to the juſtices of our ſaid lord the king at Weſtminſter, on , under his ſeal, and the ſeals of thoſe by whoſe oath he ſhall take ſuch inquiſition; the ſame day is given to the ſaid A. here, &c. and upon this the ſaid A. prays a writ of our lord the king to be directed to the ſheriff of the county aforeſaid, to cauſe him to have poſſeſſion of his ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, and it is granted to him returnable here at the term aforeſaid, &c.

The like with damages remitted in C. B.

[The ſame as above till] Whereby the ſaid A. remains therein againſt the ſaid C. his ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, and his damages by reaſon of the treſpaſs and ejectment aforeſaid to be adjudged to him, &c. and thereupon the ſaid A. here in court freely releaſes unto the ſaid C. as well all and every the damages, coſts, and charges which might or ought to be adjudged to the ſame A. by reaſon of the treſpaſs and ejectment aforeſaid, as well all and every the judgments and executions to be had of or for the ſame; therefore the ſaid C. is freed and acquitted from the ſame, and may go thereof with day, &c.; and upon this the ſaid A. prays a writ of our lord the king to be directed to the ſheriff of the ſaid county aforeſaid, to cauſe him to have poſſeſſion of his ſaid term yet to come of and in the tenements aforeſaid, with the appurtenances, and it is granted to him returnable here, &c.

Entry of final judgment, with a ſuggeſtion of the death of one of the plaintiffs after the writ of enquiry, and before final judgment.

[AFTER the award of the writ of enquiry go on as follows]: At which day comes here the ſaid J. by his attorney aforeſaid, and the ſheriff of the ſaid county of Middleſex, to wit, T. H. eſquire and J. S. eſquire, now returns here a certain inquiſition taken before him at , in the ſaid county of Middleſex, on the day of , in the year of, &c. the now king, by the oath of twelve good and lawful men of his bailiwick, by which it is found that the ſaid M. and J. have ſuſtained damages by reaſon of the premiſes, beſides their coſts and charges by them laid out about their ſuit in this behalf, to two hundred and four pounds fifteen ſhillings, and for thoſe coſts and charges to twenty ſhillings; and thereupon the ſaid J. gives the court here to underſtand and be informed that the ſaid M. ſince the laſt continuance of the plea aforeſaid, and before this day, to wit, on the , in the ninth year, &c. at Weſtminſter aforeſaid died; wherefore it is conſidered by the court here that there be no further proceedings in this plea at the ſuit of the ſame M. and thereupon the ſaid J. prays judgment of and upon the premiſes aforeſaid; it is therefore conſidered in and by the court here that the ſaid J. do recover againſt the ſaid R. the damages aforeſaid, by the inquiſition aforeſaid in form aforeſaid found to two hundred and five pounds five ſhillings, and alſo nine pounds fifteen ſhillings awarded to the ſaid J. and with his aſſent by the court here for the coſts and charges aforeſaid by way of increaſe, which ſaid damages amount in the whole to two hundred and fifteen pounds; and the ſaid R. is in mercy, &c.

Mercy.

Judgment for not producing the record upon a plea of *nul tiel record*, and an entry of the ſuggeſtion of the death of one of the plaintiffs before interlocutory judgment.

AND now at this day, that is to ſay, on Monday next after in this ſame term, which day was given by the ſaid court of our lord the king now here for the ſaid Charles to produce the record by him ſo above in pleading allowed before our ſaid lord the king come the ſaid James by his ſaid attorney, and the ſaid

Charles,

Charles, although ſolemnly demanded in open court to appear and bring forth the ſaid record, cometh not, nor bringeth forth the ſame, but therein wholly maketh default; and thereupon the ſaid James gives the court here to underſtand and be informed that the ſaid M. ſince the laſt continuance of the plea aforeſaid, and before this day, to wit, on , in the ninth year, &c. at Weſtminſter aforeſaid died; wherefore it is conſidered by the court here that there be no further proceedings in this plea at the ſuit of the ſaid M. and thereupon the ſaid James prays judgment of and upon the premiſes aforeſaid; wherefore it is conſidered by the ſaid court of our ſaid lord the king now here that the ſaid James ought to recover againſt the ſaid C. his damages ſuſtained by reaſon of the premiſes; but becauſe the ſaid court of our ſaid lord the king now here doth not know what damages the ſaid James hath in this behalf ſuſtained, therefore the ſheriff of the ſaid county of Middleſex is commanded that by the oath of twelve honeſt and lawful men of his bailiwick he diligently enquire what damages the ſaid James hath ſuſtained, as well by reaſon of the ſaid Charles not performing the ſeveral promiſes and undertakings aforeſaid as for his coſts and charges laid out by him about his ſuit in this behalf; and that the ſaid ſheriff ſhould cauſe the inquiſition which he ſhould take thereon to be before his majeſty on the morrow, &c. whereſoever his ſaid majeſty ſhould then be in England, under his ſeal and the ſeals of thoſe by whoſe oaths he ſhould take ſuch inquiſition; at which day, before our ſaid lord the king at Weſtminſter, cometh the ſaid J. by his attorney aforeſaid, and the ſaid ſheriff, namely, eſquire, and eſquire, now returns a certain inquiſition taken before him at , the, &c. at Weſtminſter, in the ſaid county, on the, &c. in the ninth year, &c. by the oaths of twelve good and lawful men of his bailiwick, by which it is found that the ſaid James hath ſuſtained damages by reaſon of the premiſes, beſides his coſts and charges by him about his ſuit in this behalf laid out to pounds, and for thoſe coſts and charges to twenty-one ſhillings; therefore it is conſidered that the ſaid James recover againſt the ſaid Charles his damages aforeſaid to pounds, by the inquiſition aforeſaid in form aforeſaid found, and alſo pounds adjudged by the court here to the ſaid James at his own requeſt for increaſe of his ſaid coſts and charges, which ſaid damages amount in the whole to pounds; and the aforeſaid, &c. in mercy, &c.

In the Common Pleas, Trinity Term, 30. Geo. III.

Judgment of non *proſ.* for an attorney in C. B. for not declaring after filing a bill againſt him there.

LONDON, to wit. Joſeph Wallis filed his bill as of laſt Eaſter term againſt James Cleator, gentleman, one of the attornies of the court of our lord the king of the bench, preſent here in court in his proper perſon, in a plea of treſpaſs on the caſe, to which ſaid bill the ſaid James Cleator duly appeared in his proper perſon as of the ſame Eaſter term in the ſame court here, but the ſaid Joſeph Wallis doth not further proſecute the ſame bill; therefore

fore it is conſidered by the court here that he and his pledges for the proſecution be in mercy, &c.; the names of the ſaid pledges are John Doe and and Richard Roe; and the ſaid James is from hence and for ever diſcharged without a day, &c.: It is alſo conſidered that the ſaid James recover againſt the ſaid Joſeph pounds, by the diſcretion of the juſtices of the court of the lord the king of the bench here, according to the form of the ſtatute in ſuch caſe made and provided, at his requeſt adjudged to him for his coſts and charges ſuſtained by him about his defence in this behalf, &c.

Judgment in B. R. in *aſſumpſit* againſt two executors where both join in *non aſſumpſit*, both plead *plene adminiſtravit*; and one pleads, not executor, and never had aſſets, upon all which iſſues the plaintiff obtained a verdict.

THEREFORE it is conſidered that the ſaid John Fuggle recover againſt the ſaid Elizabeth and Andrew their damages aforeſaid, by the jury aforeſaid, in form aforeſaid aſſeſſed, and alſo forty-four pounds thirteen ſhillings for his coſts and charges aforeſaid to the ſaid John by the court of our lord the king now here adjudged of increaſe, with his aſſent, which ſaid damages, in the whole, amount to ſixty-ſeven pounds ten ſhillings, of the goods and chattels which were of the ſaid Thomas Bolton at the time of his deceaſe, being in the hands of the ſaid Elizabeth and Andrew to be adminiſtered, to be levied if they have ſo much thereof in their hands to be adminiſtered; and if they have not ſo much in their hands to be adminiſtered, then the ſaid ſum of twenty pounds ſeventeen ſhillings, parcel of the ſaid damages, and ſo as aforeſaid aſſeſſed, on occaſion of the non-performance of the aforeſaid promiſes and undertakings, to be levied of the proper goods and chattels of the ſaid Elizabeth; and the ſum of forty-ſix pounds thirteen ſhillings, reſidue of the ſaid damages (being the coſts and charges aforeſaid), to be levied of the proper goods and chattels of the ſaid Elizabeth and Andrew; and that the ſaid Elizabeth and Andrew are in mercy, &c.

Vide 1. Roll. Abr. 932. 5. Com. Dig. 209. Went. Off of Exec. c. 15. Townſhend's 1ſt Book of Judgments, 22. 3. Danv. 405. 6. 11. H. 6. 37. b. 1. Rol. Abr. 932. Cro. Jac 647. 671. Palm. 280. 314.

Declaration in debt on bond, by executrix of executor of obligee, againſt huſband and wife, executrix of former huſband, obligor; plea, *plene adminiſtravit*; replication, taking judgment of the 5l. and iſſue on *plene adminiſtravit præter.*

TAYLOR, WIDOW, EXECUTRIX, *againſt* ROSE AND HIS EXECUTRIX. } ——, to wit. And the ſaid Mary, executrix as aforeſaid, as to the ſaid ſum of five pounds, which the ſaid John and Sarah have above acknowledged to have in the hands of the ſaid Sarah, pray judgment, and that the ſaid ſum of five pounds, together with her damages by reaſon of the detention of the ſaid five pounds, to be adjudged to her, &c.; therefore it is conſidered that the ſaid Mary recover againſt the ſaid John and Sarah the ſaid five pounds of the goods and chattels which belonged to the ſaid William Roſe, deceaſed, and that the ſaid John and Sarah, executrix as aforeſaid, in mercy, &c.; and as to the reſidue of the ſaid debt above demanded, the ſaid Mary, executrix as aforeſaid, ſays, that ſhe, by reaſon of any thing above alledged, ought not to be precluded from having and maintain-

maintaining her aforeſaid action thereof againſt them the ſaid John and Sarah; becauſe as to the ſaid plea of the ſaid J. and Sarah above pleaded, the ſaid Mary ſays, that on the day of exhibiting of the ſaid Mary, to wit, on the ſixth day of November, in the year of Our Lord 1798, the ſaid Sarah had beſides, and above the goods and chattels aforeſaid, to the value of the ſaid five pounds, divers goods and chattels which belonged to the ſaid William Roſe deceaſed, at the time of his death, in the hands of the ſaid Sarah to be adminiſtered, to the value of the reſidue of the ſaid debt above demanded, whereby the ſaid Sarah might have ſatisfied the ſaid Mary thereof, to wit, at London aforeſaid, in the pariſh and ward aforeſaid; and this the ſaid Mary prays may be enquired of by the country; and the ſaid John and Sarah do ſo likewiſe, &c.; and becauſe it is convenient that there be but one taxation of damages in this behalf if judgment ſhould be given for the ſaid Mary for the reſidue of the ſaid debt above demanded, therefore let the taxation of damages for the non-payment of the ſaid five pounds which the ſaid John and Sarah acknowledge to be in the hands of the ſaid Sarah, ſtay until the iſſue aforeſaid between the parties aforeſaid above joined be tried and determined; and to try that iſſue let a jury come before the lord the king at Weſtminſter, on next after , and who neither, &c. to recognize, &c. becauſe as well, &c. the ſame day is given to the parties aforeſaid there, &c.

THOMAS BARROW.

INTERROGATORIES.

In the King's Bench.

INTERROGATORIES to be exhibited for the examination of Peter Maxwell, a witneſs, to be produced, ſworn, and examined on the part and behalf of the ſaid Thomas Eldred and James Stuart, in a certain cauſe depending, wherein the ſaid Thomas Eldred and James Stuart are plaintiffs, and William Skinner the elder, William Skinner the younger, and Alice Skinner, are defendants, before the lord chief juſtice, or one other of the juſtices of his majeſty's court of K. B. purſuant to a rule of the ſaid court, made on Monday next after five weeks from Eaſter day in the thirty-ſecond year of the reign of king George the Third. Interrogatories to witneſs going abroad.

1ſt, Did you on or about the month of October laſt belong to a certain ſhip or veſſel, called the Adventure? If yea, who were or was the owner or owners thereof, and who was the captain and commander thereof? And of what number did the crew of the ſaid ſhip conſiſt? What ſtation or office did you hold in the ſaid ſhip? Where was the ſaid ſhip or veſſel at that time, and had the ſaid ſhip any, and what cargo on board, and on what voyage was ſhe bound? First.

2d. Did the ſaid ſhip or veſſel, called the Adventure, ſail and proceed upon the voyage deſcribed in your anſwer to the firſt interrogatory? If yea, when did ſhe ſo ſail? And had ſhe or had ſhe not the aforeſaid cargo on board at the time of her ſailing, and of the accident which afterwards befel the ſaid ſhip? Secondly.

3d. Did any Thirdly.

any and what accident befal and happen to the ſaid ſhip or veſſel and cargo in and during the aforeſaid voyage? If yea, deſcribe the ſame particularly; and if the ſame was occaſioned by any other ſhip or veſſel running foul of her? Was the ſaid accident occaſioned by the wilfulneſs, careleſſneſs, or neglect of the mariners on board the ſaid ſhip, or by any other, and what means? Set forth the ſame particularly and minutely, and your reaſons for the ſame; and deſcribe the ſituation of the two ſhips reſpectively, and the ſtate of the winds at that time, and be very particular in ſtating the damages ſuſtained by the ſaid ſhip and cargo; ſet forth the ſame and all that you know reſpecting the ſame at large.

W. BALDWIN.

INTERROGATORIES to be adminiſtered to Thomas Townſhend, a witneſs, to be produced, ſworn, and examined on the part and behalf of David Campigne, plaintiff, againſt Chriſtopher Martino, defendant, before , one of the juſtices of his majeſty's court of K. B. purſuant to a rule of the ſaid court, made on next next after , in the twenty-ninth year of the reign of king George the Third.

First. Do you know the parties, plaintiff and defendant, in the title of theſe interrogatories named, or either, and which of them? And how long have you known them, or either of them reſpectively

Second. declare. 2dly, Did you, or did you not, in the month of May 1785, or at any other, or what time, and how long before or ſince, know a certain ſhip or veſſel called the Charming Nancy? If yea, of what built and burthen was the ſaid ſhip or veſſel, to what port did ſhe belong, who were the owner or owners and

Third. maſter thereof, and where did they ſeverally reſide? 3dly, Did you or did you not ever, and for how long, ſerve on board the ſaid ſhip or veſſel, called the Charming Nancy? If yea, in what capacity, from what port, upon what voyage, or when in particular did you firſt ſet ſail, and up to what time did you continue on board her, in what condition was the ſaid ſhip or veſſel at the time of her ſetting ſail upon ſuch your laſt voyage on board her, how long before then, in what manner, and at what expence had ſhe been repaired to your knowledge, and how was ſhe manned, furniſhed,

Fourth. and provided for ſuch voyage? 4thly, Was or was not any examination made into the ſtate and condition of ſuch ſhip, and her fitneſs for ſuch your laſt voyage on board her, at any and what time previous to ſetting ſail thereupon? By whom, under whoſe orders, or by what authority (if at all) was ſuch examination made, and did it take place on any particular occaſion, or in conſequence of any general uſage of the port from whence ſhe ſailed, or how other-

Fifth. wiſe? 5thly, Were any, and what goods laden on board the ſaid ſhip or veſſel for ſuch voyage, or otherwiſe? Did you or did you not at any time, and when, take any or what account or notice of ſuch goods, or any of them, and are you now by any and what means enabled

enabled to particularize the ſame, when, where, and by whom were ſuch goods ſeverally laden on board the ſaid ſhip or veſſel? Had you or had you not any, and what knowledge of the reſpective quantities or qualities of ſuch goods, or any of them? And if ſo, how did you acquire your knowledge thereof? 6thly, Did any, or what loſs or accident happen to the ſaid ſhip or veſſel and goods, and to either of them, in the courſe of your laſt voyage on board her, or otherwiſe? If yea, when, where, at what diſtance from land did ſuch loſs or accident happen, how was the ſame occaſioned, and what were the conſequences thereof? Set forth the matters inquired after by this interrogatory fully and at large. 7thly, Look upon the paper writing produced and read to you at this time, and your examination marked with the letter A. purporting to be a proteſt, and ſubſcribed amongſt other ſignatures thereto with the letters "Thomas Townſon," by whom were ſuch letters written, at what time and place, and for what purpoſe was ſuch paper writing prepared and ſigned, as you know or believe? Did you or did you not at any time, and when, ſee the ſame ſigned, or in any other way, and how authenticated by ſome, and what other perſons by name? If yea, ſtate who thoſe perſons ſeverally were, and are the contents of ſuch paper writing true or falſe. [Set forth the ſame and all that you know reſpecting the ſame at large.]

Sixth.

Seventh.

CLARK *againſt* COAFFEE. } AND as to the ſaid two pounds five ſhillings the ſaid Arthur freely accepts and takes the ſame out of court here; therefore as to that ſum the ſaid Arthur is ſatisfied, and the ſaid Francis is thereof acquitted, &c.; and to try the iſſue above joined between the ſaid parties let a jury thereupon come before our lord the king at Weſtminſter, on next after by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. the ſame day is given to the ſaid parties at the ſame place.

Acceptance and ſatisfaction entered on record on payment of money into court.

Before the Mayor and Aldermen, in the chamber of the Guildhall, in the city of London.

SAMUEL Bowring and Samuel Triſte, by William Naſh their attorney, demand of Roſſeter Hoyle, ſurviving partner of John Small, deceaſed, two hundred and thirty-four pounds three ſhillings and elevenpence of lawful money of Great Britain, which he owes to and unjuſtly detains from the ſaid plaintiffs; for that whereas on the firſt of October in the twenty-eighth year of the reign of his preſent majeſty king George the Third, at the pariſh of St. Helen, London, for and in conſideration of divers ſums of money before that time due and owing from the ſaid Roſſeter Hoyle and John Small to the ſaid plaintiffs in the lifetime of the ſaid John Small, and then in arrear and unpaid to the ſaid Roſſeter Hoyle and John Small, granted and agreed to pay to the ſaid plaintiffs the ſaid ſum of two hundred and thirty-four pounds three ſhillings and elevenpence where and when the ſaid R. Hoyle and J. Small ſhould

City attachment.

be thereunto requeſted ; yet the ſaid R. H. (the now defendant) and J. Small, or either of them, in the lifetime of the ſaid J. Small, nor the ſaid now defendant ſince the death of the ſaid John Small, (although often required) have not, nor hath either of them paid the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence, or any part thereof, to the ſaid plaintiffs or either of them, to the damage of the ſaid plaintiffs of twenty ſhillings, and therefore they bring their ſuit, &c. Pledges, &c.

Proceſs of attachment.

And the ſaid plaintiffs by their ſaid attorney pray proceſs according to the cuſtom, &c. and it is granted, &c. and thereupon it is commanded by the court to Leſlocke Peacock, one of the ſerjeants at mace of the ſaid court, that he, according to the cuſtom of the ſaid city, ſummon by good ſummoners the ſaid defendant to appear here in this court to anſwer the ſaid plaintiffs in the plea aforeſaid, and that he return and certify what, &c. ; and afterwards, to wit, at the ſame court, the ſaid ſerjeant at mace returned and certified to the ſaid court according to the cuſtom, &c. that the ſaid defendant had nothing within the ſaid city or the liberties thereof, whereby he can be ſummoned, nor was to be found within the ſame, and at the ſame court the ſaid defendant was ſolemnly called, and did not appear, but made default ; and now at this ſame court it is alledged by the ſaid plaintiffs, by their ſaid attorney, that Samuel Chollett owes to the ſaid Roſſeter Hoyle, ſurviving partner of J. Small, deceaſed, two hundred and thirty-four pounds three ſhillings and elevenpence, in monies numbered, as the proper monies of the ſaid defendant, and now has and detains the ſame in his hands and cuſtody ; and therefore the ſaid plaintiffs by their ſaid attorney pray proceſs, according to the cuſtom, &c. to attach the ſaid defendant by the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence, ſo being in the hands and cuſtody of the ſaid Samuel Chollett as aforeſaid, ſo that the defendant may appear in this court here to be holden, &c. to anſwer the ſaid plaintiffs in the plea aforeſaid, whereupon it is commanded by the court to the ſaid ſerjeant at mace, that he, according to the cuſtom, &c. attach the ſaid defendant by the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence ſo being in the hands and cuſtody of the ſaid Samuel Chollett as aforeſaid, and the ſame in his hands and cuſtody defend and keep, ſo that the ſaid defendant may appear in this court here to be holden, &c. to anſwer the ſaid plaintiffs in the plea aforeſaid, and that the ſaid ſerjeant at mace return, &c. ; and afterwards, to wit, at a court holden, &c. on Friday the ſixth day of November aforeſaid, the ſaid plaintiffs, by their ſaid attorney, appear, and the ſaid ſerjeant at mace returned and certified to the ſame court that he by virtue of the ſaid precept, on the fifth day of November, between the hours of four and five in the afternoon, had attached the ſaid defendant by the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence ſo being in the hands and cuſtody of the ſaid Samuel Chollett, and the

ſame

ſame defended, &c. according to the cuſtom, &c. ſo that the ſaid defendant might appear to this court to anſwer the ſaid plaintiffs in the plea aforeſaid; and thereupon the ſaid defendant at the ſame court was ſolemnly called and did not appear, but made a firſt default, which ſaid firſt default at the ſame court is recorded, according to the cuſtom, &c. and a further day is given by the court to the ſaid defendant to appear at the next court, to be holden, &c. on Saturday the ſeventh day of November, at which ſaid next court, holden, &c. the ſaid plaintiffs, by their ſaid attorney, appear and offer themſelves againſt the ſaid defendant in the plea aforeſaid, and thereupon at the ſame court the ſaid defendant was again ſolemnly called and did not appear, but made a ſecond default, which ſaid ſecond default is recorded, &c. [a third and fourth default ſimilar on the ninth and tenth of Nov.] which ſaid fourth defaults is recorded, &c.; and thereupon after the ſaid four defaults recorded by the court againſt the ſaid defendant in the plea aforeſaid, according to the cuſtom, &c. the ſaid plaintiffs, by their ſaid attorney, pray proceſs, according to the cuſtom, &c. to warn the ſaid Samuel Chollett, the garniſhee, to be and appear in this court to ſhew cauſe, &c.; whereupon at the ſame court holden, &c. it is commanded by the ſame court to the ſaid ſerjeant at mace, that he, according to the cuſtom of the city, warn and make known to the ſaid garniſhee to be and appear in this court to be holden, &c. on Wedneſday the eleventh day of November aforeſaid, to ſhew cauſe, &c. why the ſaid plaintiffs ought not to have execution of the ſaid two hundred and thirty four pounds three ſhillings and elevenpence, ſo attached in his hands and cuſtody as aforeſaid, and that the ſaid ſerjeant at mace return and certify at the ſame court what, &c. the ſame day is given by the ſaid court to the ſaid plaintiffs to be there, &c.; at which ſaid court, holden, &c. the ſaid plaintiffs, by their ſaid attorney, appear, and the ſaid ſerjeant at mace hath returned and certified to the ſaid court that he, by virtue of the ſaid precept to him directed, and according to the cuſtom, &c. had warned and made known to the ſaid garniſhee to be and appear at this ſame court to ſhew cauſe, &c. as above commanded; and thereupon, at this ſame court the ſaid garniſhee was ſolemnly called, and appears, and appoints in his ſtead Thomas Emerſon his attorney.

4th Default.

Garniſhee warned.

Before the Mayor and Aldermen in the chamber of the Guildhall of the city of London.

AND the ſaid Samuel Chollett the garniſhee, by Thomas Emerſon his attorney, on the twenty-third day of November, in the year above ſaid, comes and ſays that the ſaid plaintiff ought not to have execution againſt him of the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence in monies numbered, ſo attached as aforeſaid, or of any part thereof, becauſe he ſays that at the time of the making the ſaid attachment or at any time ſince, he had not owed to or detained from, or yet

1ſt Plea, *nil debet.*

has, owes to, or detains from the ſaid Roſſetor Hoyle, ſurviving partner of the ſaid John Small deceaſed, the defendant named in the bill, original, and attachment aforeſaid, the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence, or any part thereof in manner and form as the ſaid plaintiffs by their bill, original, and attachment aforeſaid have above ſuppoſed; and of this he puts himſelf upon the country, &c. And for a further plea in this behalf the ſaid Samuel Chollett by leave of the court here to him for that purpoſe granted according to the form of the ſtatute in ſuch caſe made and provided ſays, that the ſaid plaintiffs ought not to have execution againſt him of the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence ſo attached as aforeſaid, or of any part thereof, becauſe he ſays that the ſaid plaintiff heretofore, to wit, on the ſixth day of Auguſt, in the twenty-ninth year of the reign of his preſent majeſty, at a court then holden before the mayor and alderman of the city of London, in the chamber of the Guildhall of the city of London, according to the cuſtom of the ſaid city, affirmed their certain bill original againſt the ſaid Roſſeter Hoyle, as ſuch ſurviving partner of the ſaid John Small deceaſed, in a plea of debt upon demand for two hundred and thirty-four pounds three ſhillings and elevenpence, and then and there found pledges to proſecute the ſaid bill original, and ſuch proceedings were thereupon had in the ſaid court before the ſaid mayor and alderman of the ſaid city in the chamber aforeſaid, according to the cuſtom of the ſaid city, at the prayer of the ſaid plaintiffs, that the ſaid Samuel Chollett was duly warned according to the cuſtom aforeſaid to be and appear at a court to be holden before the ſaid mayor and alderman on Wedneſday the eleventh day of November, in the year aforeſaid, to ſhew cauſe why the ſaid plaintiffs ought not to have execution of the ſum of two hundred and thirty-four pounds three ſhillings and elevenpence attached in his hands and cuſtody as the proper monies of the ſaid Roſſeter Hoyle, as ſuch ſurviving partner as aforeſaid, upon and by virtue of the bill original in this plea mentioned: And the ſaid Samuel Chollett further ſays, that having duly appeared at the ſaid laſt-mentioned court as garniſhee upon the bill, original, and attachment aforeſaid, he the ſaid Samuel Chollett, on the third day of October now laſt paſt pleaded, that at the time of the making the ſaid attachment, or at any time ſince, he had not owed to or detained from the ſaid Roſſeter Hoyle, as ſuch ſurviving partner as aforeſaid the ſaid ſum of two hundred and thirty-four pounds three ſhillings and elevenpence, or any part thereof, and that the ſaid plaintiffs having joined iſſue upon the ſaid plea, ſuch proceedings were thereupon duly had in the ſaid court, according to the cuſtom of the ſaid city, that iſſue ſo joined afterwards, to wit, on Wedneſday the fourth day of November now laſt paſt at a court then holden before the mayor and alderman of the ſaid city of London, in the chamber of the Guildhall of the ſaid city, came on to be and was tried by a jury duly impanelled and ſworn for that purpoſe, who upon their oaths found a verdict for the ſaid Samuel

2d Plea, a judgment recovered in the ſame court for the ſame ſum.

Samuel Chollett upon the ſaid iſſue, whereupon it was conſidered by the court there that the ſaid plaintiffs ſhould take nothing by their bill, original, and attachment as aforeſaid, but that the ſaid Samuel Chollett ſhould go acquitted thereof without day, &c. as by the record of the proceedings aforeſaid ſtill remaining in the ſaid court in full force and effect may more fully appear: And the ſaid Samuel Chollett further ſays, that ſince the time of his having ſo pleaded as aforeſaid no monies whatſoever have come to his hands or cuſtody, the property of the ſaid Roſſeter Hoyle, as ſuch ſurviving partner as aforeſaid; and this he is ready to verify; wherefore he prays judgment if the ſaid plaintiffs ought to have execution againſt him of the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence ſo attached as aforeſaid, or any part thereof: And for a further plea in this behalf the ſaid Samuel Chollett by like leave of the court here to him for this purpoſe granted according to the form of the ſtatute in ſuch caſe made and provided ſays, that the ſaid plaintiffs ought not to have execution againſt him of the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence ſo attached as aforeſaid, or of any part thereof, becauſe he ſays, that before the making of the ſaid attachment, to wit, on the fifth of November in the thirtieth year of the reign of his preſent majeſty, between the hours of eight and nine in the forenoon of the ſame day, the ſaid R. H. by the name of R. H. ſurviving partner of John Small, deceaſed, at a court then holden before the mayor and aldermen of the city of L. in the chamber of the Guildhall of the city of London, according to the cuſtom of the ſaid city, affirmed a certain bill original againſt the ſaid Samuel Chollett, at the ſuit of him the ſaid R. H. in a plea of treſpaſs upon the caſe to his damage of three thouſand pounds of lawful money of Great Britain, and then and there found pledges to proſecute his ſaid bill original, that is to ſay, John Doe and Richard Roe: And the ſaid Samuel Chollett further ſays, that the ſaid ſum of two hundred and thirty-four pounds three ſhillings and elevenpence ſo attached as aforeſaid, in part of the ſaid ſum of three thouſand pounds, for which the ſaid bill original was affirmed againſt him at the ſuit of the ſaid R. Hoyle as aforeſaid; and this he is ready to verify; wherefore he prays judgment if the ſaid plaintiff ought to have execution againſt him of the ſaid two hundred and thirty-four pounds three ſhillings and elevenpence ſo attached in his hands and cuſtody as aforeſaid, or any part thereof.

3d Plea, that defendant recovered in the ſame court againſt garniſhee.

S. MARRYAT.

DEMURRERS.

GUNSTON *at ſuit of* KRAY. } AND the ſaid Robert, by A. B. his attorney, comes and defends the force and injury when, &c. and ſays, that the declaration aforeſaid and the matters therein contained in manner and form as the ſame are above

Demurrer.

Cauſe for that declaration is entitled of Hilary Term, and relates to the firſt day of term of that term twenty-third of January, whereas cauſes of action had not accrued before the tenth of February ſubſequent.

ſtated and ſet forth are not ſufficient in law for the ſaid William to have his aforeſaid action thereof maintained againſt him, and that he the ſaid Robert is not under any neceſſity nor in anywiſe bound by the law of the land to anſwer the ſame; and this he is ready to verify; wherefore for want of a ſufficient declaration in this behalf he prays judgment, and that the ſaid William may be barred from having his aforeſaid action thereof maintained againſt him; and for cauſes of demurrer in law the ſaid Robert, according to the form of the ſtatute in ſuch caſe made and provided, ſets down and ſhews to the court here the cauſes following, that is to ſay, for that although the ſaid declaration is intituled generally of Hilary term in the thirtieth year of the reign of his preſent majeſty, which refers and relates to the firſt day of that term, being the twenty-third day of January in the ſame year, yet the ſeveral treſpaſſes in the ſaid declaration mentioned are thereby alledged to have been committed on the tenth day of February in that year, which is ſubſequent to the ſaid time of the exhibiting of the declaration of the ſaid William againſt the ſaid Robert, and for that it appears by the ſaid declaration that the pretended cauſe of action therein ſpecified had not, nor had either of them accrued to the ſaid William at the time of the exhibiting of his ſaid bill in manner aforeſaid, and alſo for that the ſaid declaration is in various other reſpects uncertain, defective, and informal, &c.

SAMUEL MARRYAT.

Trinity Term, 29. Geo. III.

Demurrer, for that plaintiff has brought action as adminiſtratrix, but does not alledge that J. F died inteſtate, or by whom ſuch adminiſtration was committed, or at what time, or at what place

ARCHELL *at ſuit of* FISHER, ADMINISTRATRIX.

AND for cauſes of demurrer in law according to the form of the ſtatute, &c. the ſaid Thomas ſets down and ſhews to the court here the cauſes following, that is to ſay, for that although the ſaid Ann has brought this action as adminiſtratrix of all and ſingular the goods and chattels, rights and credits which were of the ſaid John Fiſher, deceaſed, at the time of his death, yet ſhe has not in or by her ſaid declaration alledged that the ſaid John Fiſher died inteſtate, or ſhewn under what other circumſtances adminiſtration thereof was granted to her, and for that it is not in or by the ſaid declaration alledged or ſhewn by whom ſuch adminiſtration was committed to the ſaid Ann, or that the ſame was committed to her by any perſon having authority ſo to do; and for that it is not ſtated at what time or at what place ſuch adminiſtration was granted; and alſo for that the ſaid declaration is in various other reſpects uncertain, inſufficient, and informal, &c.

The declaration in this cauſe is certainly objectionable on at leaſt one of the grounds pointed out by the demurrer; if the plaintiff ſhould get a judge's order to amend, the defendant muſt plead *de novo* within two days after the making of the amendments and payments of coſts.

SAMUEL MARRYAT.

GEORGE

Trinity Term, 29. Geo. 3.

GEORGE WILSON *at ſuit of* ROBERT WILSON. } AND the ſaid G. by A.B. his attorney, comes and defends the wrong and injury when, &c. and ſays, that the ſaid declaration aforeſaid, and the matters therein contained, in manner and form as the ſame are above ſtated and ſet forth, are not ſufficient in law for the ſaid Robert to have his aforeſaid action thereof maintained againſt him, and that he the ſaid George is not under any neceſſity, nor in any wiſe bound by the law of the land to anſwer the ſame; and this he is ready to verify; wherefore for want of a ſufficient declaration in this behalf he prays judgment, and that the ſaid Robert may be barred from having his aforeſaid action thereof maintained againſt him: And for cauſes of demurrer in law, the ſaid George, according to the form of the ſtatute in ſuch caſe made and provided, ſets down and ſhews to the court here the cauſes following, that is to ſay, for that although the ſaid Robert hath declared againſt the ſaid George, as being in the cuſtody of the ſheriff of the county of Middleſex, yet the ſaid Robert hath not by his ſaid declaration ſhewn by virtue of what writ or proceſs the ſaid George was in the cuſtody of the ſaid ſheriff as he ought to have done, neither doth it by the ſaid declaration appear out of what court or at whoſe ſuit ſuch writ or proceſs iſſued; and alſo for that the ſaid declaration is in various other reſpects uncertain, inſufficient, and informal, &c.

Demurrer, for that declaration alledges defendant to be in cuſtody of the ſheriff of Middleſex, but does not ſhew by virtue of what writ or proceſs as he ought to have done.

The caſe of Williams againſt Wilks, 1. Wilſ. 119 is a direct authority in ſupport of the demurrer, though I ſhould think it clearly maintainable upon the ſtatute 4. & 5. W. & M. c. 21. independently of any authority.

Hilary Term, 30. Geo. III.

LONDON, to wit. William Cook puts in his place Samuel Foſket his attorney againſt Joſeph Iriſh, as executor of the laſt will and teſtament of John Iriſh, deceaſed, in a plea of treſpaſs upon the caſe.

Warrants for plaintiff.

London, to wit. The ſaid Joſeph Iriſh puts in his place James Newland his attorney, at the ſuit of the ſaid William in the plea aforeſaid.

For defendant.

London, to wit. Be it remembered that in Eaſter term laſt paſt, before our lord the king at Weſtminſter, came William Cook, by Samuel Foſket his attorney, and brought in the court of our ſaid lord the king then there his bill againſt Joſeph Iriſh, executor of the laſt will and teſtament of John Iriſh, deceaſed, being in the cuſtody of the marſhal of the lord the king, before the king himſelf, of a plea of treſpaſs on the caſe; and there are pledges for the proſecution, to wit, John Doe and Richard Roe, which ſaid bill follows in theſe words, to wit. London, to wit: William

Memorandum.

liam Cook complains againſt Joſeph Iriſh, executor of the laſt will and teſtament of John Iriſh, deceaſed, being in the cuſtody of the marſhal of the Marſhalſea of our lord the now king, before the king himſelf; for that whereas the ſaid John Iriſh in his lifetime, &c. &c. [Several counts on an *indebitatus aſſumpſit*, by the teſtator in his lifetime to the plaintiff, and breach in non payment of the money, either by the teſtator or by the defendant after his death as his executor.]

Plea after imparlance, proteſting that John J. did not promiſe, &c. that he defendant was never executor.

And now at this day, that is to ſay, on Saturday next after eight days of St. Hilary in this ſame term, until which day the ſaid Joſeph had leave to imparl to the ſaid bill, and then to anſwer the ſame, &c. as well the ſaid William by his ſaid attorney as the ſaid Joſeph by James Newland his attorney, do came before our lord the king at Weſtminſter, and the ſaid Joſeph defends the wrong and injury when, &c. and ſays that the ſaid William ought not to have or maintain his aforeſaid action againſt him the ſaid Joſeph; becauſe proteſting that the ſaid John J. deceaſed, in his lifetime, did not make any ſuch will or teſtament; nevertheleſs for plea in this behalf the ſaid Joſeph ſaith that he was not nor is executor of the laſt will and teſtament of the ſaid John J. deceaſed, nor ever adminiſtered any goods or chattels which were of the ſaid John J. deceaſed at the time of his death, as executor of the will of the ſaid John J. deceaſed, after the death of the ſaid John J. deceaſed, and this the ſaid Joſeph is ready to verify; wherefore he prays judgment if the ſaid William ought to have or maintain his aforeſaid action thereof againſt him.

H. RUSSEL.

Replication, and iſſue,

And the ſaid William ſays, that he by reaſon of any thing by the ſaid Joſeph in his ſaid plea above alledged, ought not to be barred from having his aforeſaid action thereof maintained againſt the ſaid Joſeph; becauſe he the ſaid William ſays, that the ſaid Joſeph, as executor of the laſt will and teſtament of the ſaid John J. after the death of the ſaid John J. did adminiſter divers goods and chattels which were of the ſaid John J. at the time of his death, to wit, at L. in the pariſh and ward aforeſaid; and this the ſaid William prays may be enquired of by the country, and the ſaid Joſeph doth the like; therefore let a jury come before our lord the king at Weſtminſter on Wedneſday next after from the day of Eaſter, by whom, &c. who neither, &c. to recognize, &c. becauſe as well, &c. the ſame day is given to the ſaid parties there, &c.

Venire.

Continuance.

Afterwards the proceſs being continued between the parties aforeſaid of the plea aforeſaid, by the jury between them being reſpited before our lord the king at Weſtminſter until Wedneſday next after three weeks from the day of Eaſter, unleſs the king's right truſty and well-beloved Lloyd lord Kenyon, his majeſty's chief juſtice to hold pleas before the king himſelf, ſhall firſt come

on

on Tueſday, the twenty-ſeventh of April, at the Guildhall of the city of London, according to the form of the ſtatute in ſuch caſe made and provided for default of the jurors, becauſe none of them appear: And now at this day, that is to ſay, on the ſaid *Wedneſday* next after *three weeks from the day of Eaſter* before our ſaid lord the king at Weſtminſter, come the parties aforeſaid by their attornies aforeſaid, and the ſaid chief juſtice, before whom the ſaid iſſue was tried, ſends him the record before him had in theſe words, to wit: Afterwards, that is to ſay, on the day and at the place within mentioned, before the right honourable Lloyd lord Kenyon, the chief juſtice within named, Roger Kenyon, eſquire, being aſſociated unto him according to the form of the ſtatute, &c. come as well the within-named William Cook as the within-named J. by their reſpective attornies within written; and the jurors of the jury whereof mention is within made being impanelled and drawn by ballot, according to the form of the ſtatute in ſuch caſe made and provided and called over, come, and to ſpeak the truth of the matters within contained being tried and ſworn, on their oath ſay, that the within-named Joſeph J. as executor of the laſt will and teſtament of the within-named John J. after the death of the ſaid John J. did adminiſter divers goods and chattels which were of the ſaid John J. at the time of his death, in manner and form as the ſaid William Cook hath within in replying alledged, and they aſſeſs the damages of the ſaid William Cook on occaſion of the within contents, beſides his coſts and charges by him expended about his ſuit in this behalf to eight pounds eight ſhillings, and for thoſe coſts and charges to forty ſhillings; therefore it is conſidered by the court here that the ſaid William Cook recover againſt the ſaid Joſeph J. as ſuch executor as aforeſaid, the damages and coſts by the jury in form aſſeſſed, and alſo pounds for his coſts and charges by the ſaid court here adjudged, of increaſe to the ſaid William Cook with his aſſent, which ſaid damages, coſts, and charges, amount in the whole to pounds, to be levied of the goods and chattels which were of the ſaid John J. deceaſed, at the time of his death in the hands of the ſaid Joſeph J. to be adminiſtered, if he hath ſo much thereof in his hands to be adminiſtered, and if he hath not ſo much thereof in his hands to be adminiſtered, then to be levied of the proper goods and chattels of the ſaid Joſeph J. and the ſaid Joſeph J. in mercy, &c.

Poſtea.

Judgment ſigned 10th of May 1790.

De bonis teſtatoris ſi non. 1. Roll. Abr. 930. l. 40. and 933, l. 22.

Mercy.

If the plaintiff ſhould have occaſion to ſue out execution, I think that it ſhould not be in the common form, but that it ſhould purſue the language of the judgment.

S. MARRYAT.

Michaelmas Term, 26. Geo. III.

LONDON, to wit. Catherine Symmonds puts in her place William Mills her attorney, againſt Hannah Woodward, executrix of the laſt will and teſtament of William Woodward her late huſband, deceaſed, of a plea of treſpaſs on the caſe.

Warrants for plaintiff.

for defendant. London, to wit. The ſaid Hannah Woodward puts in her place John Barber her attorney, at the ſuit of the ſaid Catherine of

Memorandum. the plea aforeſaid. London, to wit. Be it remembered that on Monday next after the morrow of All Souls in this ſame term, before our lord the king at Weſtminſter, comes Catherine Symmonds, by W. M. her attorney, and brings into the court of the ſaid lord the king, before king himſelf now here, her certain bill againſt Hannah W. executrix of the laſt will and teſtament of W. W. her late huſband, deceaſed, being of a plea of treſpaſs on the caſe; and there are pledges for the proſecution, to wit, J. D. and J. R. which ſaid bill follows in theſe words, to wit,

Declaration. London, to wit. Catherine S. complains of H. W. executrix of the laſt will and teſtament of William W. her late huſband, deceaſed, being, &c.; for that whereas the ſaid William W. in his lifetime, to wit, on the firſt of December 1781, at L. aforeſaid, in the pariſh, &c. was indebted to the ſaid Catherine in the ſum of one hundred and ninety-eight pounds fifteen ſhillings of lawful, &c. for divers goods, wares, and merchandizes by the ſaid C. before that time ſold and delivered to the ſaid W. W. at his ſpecial inſtance and requeſt, and being ſo indebted, he the ſaid W. W. in his lifetime, in conſideration thereof afterwards, to wit, on the ſame, &c. againſt, &c. [Second Count, for one hundred and ninety-eight pounds fifteen ſhillings for money lent by plaintiff to teſtator]; yet the ſaid William W. in his lifetime, and the ſaid Hannah, executrix as aforeſaid ſince his death, not regarding the ſaid ſeveral promiſes and undertakings ſo made by the ſaid William W. in his lifetime as aforeſaid, but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid Catherine in this behalf, have not, nor hath either of them, although often requeſted, paid the ſaid ſeveral ſums of money or either of them, or any part thereof to the ſaid C. but to pay the ſame or any part thereof to the ſaid C. the ſaid W. W. in his lifetime, and the ſaid Hannah, executrix as aforeſaid ſince his death, have, and each of them hath hitherto wholly refuſed, and the ſaid H. executrix, ſtill refuſes, to the damage of the ſaid C. of one hundred and ninety-eight pounds fifteen ſhillings, and therefore ſhe brings ſuit, &c.

Plea, *plene adminiſtravit.* And the ſaid Hannah, by J. B. comes and defends the wrong and injury when, &c. and ſays that ſhe cannot deny the ſaid action of the ſaid C. nor but that the ſaid William W. in his lifetime, did undertake and promiſe in manner and form as the ſaid C. hath above thereof complained againſt her, nor but that the ſaid Catherine hath ſuſtained damage by reaſon of the non-performance of his ſaid promiſes and undertakings to one hundred and ninety-eight pounds fifteen ſhillings, as the ſaid Catherine hath above in her declaration alledged; nevertheleſs the ſaid Hannah ſaith that the ſaid C. ought not to have or maintain her aforeſaid action thereof againſt her to recover her ſaid damages, except as to the goods

goods and chattels which were of the ſaid William W. at the time of his death to the value of fifty ſhillings; becauſe ſhe ſaith, that ſhe has fully adminiſtered all and ſingular the goods and chattels which were of the ſaid William W. at the time of his death, and which have ever come to the hands of her the ſaid Hannah to be adminiſtered, except goods and chattels to the value of fifty ſhillings, and that ſhe hath not, nor on the day of exhibiting the bill of the ſaid C. nor at any time ſince had any goods or chattels which were of the ſaid William W. at the time of his death in her hands to be adminiſtered, except the ſaid goods and chattels to the value of fifty ſhillings aforeſaid; and this the ſaid Hannah is ready to verify; wherefore ſhe prays judgment if the ſaid C. ought to have or maintain her aforeſaid action thereof againſt her to recover damages aforeſaid, except as to the goods and chattels to the value of fifty ſhilllings, &c.

Replication, praying judgment of aſſets, *quando acciderint.*

And hereupon foraſmuch as the ſaid Hannah hath not denied the ſaid action of the ſaid Catherine, nor but that the ſaid William W. in his lifetime did undertake and promiſe in manner and form as the ſaid C. hath above thereof complained againſt her, nor but that the ſaid C. hath ſuſtained damages by reaſon of the non-performance of the ſaid promiſes and undertakings in the ſaid declaration mentioned to one hundred and ninety-eight pounds fifteen ſhillings, but hath admitted the ſame to be true, and hath above acknowledged that ſhe hath goods and chattels which were of the ſaid W. W. at the time of his death in her hands to be adminiſtered to the value of fifty ſhillings; and foraſmuch as the ſaid C. doth not deny but that the ſaid Hannah hath not, nor on the day of the exhibiting of the bill of the ſaid C. nor at any time ſince had any goods and chattels which were of the ſaid W. W. at the time of his death in her hands to be adminiſtered, except the ſaid goods and chattels to the value of fifty ſhillings as aforeſaid, ſhe ſaid C. prays judgment and her damages aforeſaid in form aforeſaid acknowledged againſt the ſaid Hannah, executrix as aforeſaid, that is to ſay, fifty ſhillings, part thereof to be levied of the goods and chattels ſo remaining in the hands of the ſaid Hannah to be adminiſtered as aforeſaid, and the reſidue of the ſame damages to be levied of the goods and chattels which were of the ſaid W. W. at the time of his death, and which ſhall hereafter come to the hands of the ſaid Hannah to be adminiſtered, together with her coſts and charges by her about her ſuit in this behalf expended, to be adjudged to her, &c.; therefore it is conſidered by the ſaid court here that the ſaid C. recover againſt the ſaid Hannah her damages aforeſaid to one hundred and ninety-eight pounds fifteen ſhillings in form aforeſaid acknowledged, that is to ſay, fifty ſhillings parts thereof to be levied of the goods and chattels ſo remaining in her hands to be adminiſtered, and the reſidue of the ſaid damages to be leviedof the goods and chattels which were of the ſaid W. W. at the time of his death, and which ſhall hereafter come to the hands of the ſaid

Judgment ſign. ed Nov. 1785.

Hannah to be adminiſtered, and alſo ſix pounds for her coſts and charges by her about her ſuit in this behalf expended by the court of our ſaid lord the king now here, adjudged to the ſaid C. with her aſſent, to be levied of the goods and chattels which were of the ſaid W. W. at the time of his death in the hands of the ſaid Hannah to be adminiſtered, if ſhe hath ſo much thereof in her hands to be adminiſtered, and if ſhe hath not ſo much in her hands to be adminiſtered, then the ſaid coſts and charges to be levied of the proper goods and chattels of the ſaid Hannah; and the ſaid Hannah in mercy, &c.

S. MARRYAT.

The above judgment was confeſſed by the executrix pending an adverſe action againſt her at the ſuit of a Mrs. Skutt, in order to give her a preference to the demand of the plaintiff Mrs. Woodward, by pleading her judgment to Skutt's action. The judgment was regularly docketed as for one hundred and ninety-eight pounds fifteen ſhillings damages, and ſix pounds coſts, although the roll was not carried in but by a miſtake of the ſerjeant, who drew the pleas to the adverſe action, or of the attorney in filling up the blanks in the ſerjeant's draft it was pleaded as a judgment for ſix pounds only. The executrix having alſo pleaded the general iſſue to Skutt's action, he took judgment of future aſſets after ſatisfaction of the judgment pleaded, and having proceeded to trial on the general iſſue obtained a verdict thereon. In the year 1789, the executrix having poſſeſſed aſſets ſufficient to ſatisfy the ſix pounds, and alſo the damages recovered by Skutt (though not ſufficient for the one hundred and ninety-eight pounds fifteen ſhillings), Skutt brought a ſecond action on the firſt recovery, ſuggeſting a *devaſtavit*, until the which time the miſtake in the plea had never been diſcovered, and it is therefore become a material queſtion whether the conſequence of ſuch miſtake to the executrix could then be obviated.

OPINION. With regard to entering the proceedings on the roll *now*, I do not ſee any particular purpoſe it is to anſwer, unleſs it be that of Mrs. Symmons's perſonal ſecurity againſt Mrs. Woodward; for I ſhould think the entry in the book at the judgment office would be a ſufficient document to authorize the court of common pleas to amend the pleadings in the action at the ſuit of Mrs. Skutt, if they are diſpoſed to allow of the amendment. I have, however, very little hopes of the court giving ſuch indulgence as it ſeems from the report of the caſe of Robinſon and Raley, 1. Burr. 316. and the quotation of it in 1. Term. Rep. 783, that the courts will not amend pleadings with all the acts of the parties themſelves after trial. In the caſe of Boniface and Walker, 2. T. Rep. 126. an amendment was indeed allowed after verdict, but there it was done on occaſion of the verdict being ſet aſide. At any rate, the amendment here can be only on the terms of paying Skutt's coſts at the time of pleading in the action at his ſuit, becauſe he has proceeded to ſubſtantiate his demand by a trial, on account of there appearing upon the plea of this judgment to be a charge of only ſix pounds on the aſſets, and he probably would not have thought it worth his while to have been at the expence of the trial, had a prior judgment to the amount of above two hundred pounds been pleaded. The affidavits in ſupport of the intended motion to amend ſhould ſtate if the facts are ſo, that Mrs. Symmons's is a *bona fide* debt, that her judgment was in fact ſigned for one hundred and ninety-eight pounds fifteen ſhillings, beſides ſix pounds coſts, and ſo entered in the books at the judgment office; that Woodward's effects are not ſufficient to ſatisfy ſuch judgment; that the ſubſtitution of the one ſum for the other in the plea to the firſt action at the ſuit of Skutt, was a miſtake of the attorney then concerned, who is ſince dead, inſolvent, and that the miſtake was not diſcovered until the delivery of the declaration in the preſent action, ſuggeſting a *devaſtavit*.

S. MARRYAT.

GEORGE

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and ſo forth, to the recorder, bailiffs, and capital juſtices of the town or borough of Ludlow, in the county of Salop, greeting: We being willing for certain cauſes to be certified of a certain *plaint* in our court before you levied or affirmed againſt A. M. at the ſuit of H. F. on the demiſe of J. P. in a certain plea of treſpaſs and ejectment of farm, command you and every of you that you ſend the ſaid plaint, together with all things touching the ſame, by whatſoever names the parties may be called therein before us at Weſtminſter on next after , ſo fully and entirely as it remains before you or any of you, together with this writ, that we may further do thereupon what ſhall ſeem right to be done. Witneſs Lloyd Lord Kenyon, at Weſtminſter, the day of , in the thirty-ſecond year of our reign 1792.

Certiorari to inferior courts. Qu. If by plaint or *original*.

Theſ. Br. 68. Off. Br. 40.

GEORGE the Third, &c. to the keepers of our peace, and to our juſtices aſſigned to hear and determine divers felonies, treſpaſſes, and other miſdemeanors committed within our county of Dorſet, and to every of them, greeting: We being willing for certain reaſons that all and ſingular indictments of whatſoever treſpaſſes, contempts, and aſſaults whereof W. E. is indicted before you (as it is ſaid) be determined before us and not elſewhere, do command you and every of you that you or one of you do ſend under your ſeals or the ſeal of one of you before us at Weſtminſter, immediately after the receipt of this our writ, all and ſingular the ſaid indictments, with all things touching the ſame, by whatſoever name the ſaid W. E. is called in the ſame, together with this our writ, that we may farther cauſe to be done therein what of right, and according to the cuſtom of England, we ſhall ſee fit to be done. Witneſs, &c.

Certiorari to juſtices of the peace to remove an indictment.

By the Court.

BURROW.

At the inſtance of the proſecutor,
By rule of Court.

[The execution of this writ appears in the ſchedule to the ſame writ annexed.]

DORSETSHIRE. I Richard Brodrippe, Eſq. one of the keepers of the peace, and juſtice of our lord the king aſſigned to keep the peace within the ſaid county, and alſo to hear and determine divers felonies, treſpaſſes, and other miſdemeanors in the ſame county committed by virtue of the writ to me delivered, do under my ſeal certify unto his majeſty in his court of King's Bench the indictment of which mention is made in the ſame writ, together with all matters touching the ſame indictment. In witneſs whereof I the ſaid R. B. have to theſe preſents ſet my ſeal. Given at Dorcheſter, in the ſaid county, the twenty ſecond day of

Return.

of February, in the ninth year of the reign of our ſovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and ſo forth, and in the year of our Lord 1769.

Writ of ſummons againſt a peer.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the Sheriff of Middleſex, greeting: We command you, that you cauſe to be ſummoned W. H. duke of (having privilege of parliament), that he be before us on next after of St. Hilary, to anſwer to Peter N. in a plea of treſpaſs and criminal converſation with the wife of the ſaid Peter, to his damage of ten thouſand pounds, as he ſhall be able reaſonably to ſhew that he ought to anſwer therein; and have there then this writ. Witneſs Lloyd lord Kenyon, at Weſtminſter, the day of , in thirtieth year of our reign.

Præcipe. Writ of Summons for Peter N. againſt W. H. duke of (having privilege of parliament).

Return on next after

A challenge to the array of a jury, with a demurrer to ſuch challenge, and a joinder to ſuch demurrer.

AND now at this day, that is to ſay, on Monday the ſeventeenth day of Auguſt, in the fifteenth year of the reign of our ſovereign lord the preſent king come as well the ſaid Samuel, lord biſhop of Cheſter, plaintiff, by his attorney, as the ſaid Iſaac Walker, &c. &c. defendants, by their attorney aforeſaid, and the jurors aforeſaid empanelled and demanded come, and thereupon the aforeſaid J. W. &c. &c. defendants, by A. B. their attorney, do challenge the array of the panel aforeſaid, becauſe they ſay, that the ſaid Samuel lord biſhop of Cheſter, the plaintiff is, and at the time of arraying the panel aforeſaid, was one of the peers of the realm of Great Britain, having a voice and place in every parliament of Great Britain, and that the array of the panel aforeſaid, was arrayed by R. D. eſquire, ſheriff of the county of Lancaſter, no knight being named and returned on the ſame panel of the array aforeſaid, as ought to have been done according to the law of the realm; and this they are ready to verify; wherefore they pray judgment and that the ſame panel may be quaſhed, &c.

D. POOLE.

Demurrer to the above challenge.

And the ſaid Samuel, biſhop of Cheſter, by A. B. his attorney, ſaith, that the ſaid challenge of the ſaid defendants to the array of the panel aforeſaid is not ſufficient in law to quaſh the ſaid array of the panel aforeſaid; and that there is no neceſſity for him, nor is he obliged by the law of the land of this part of the kingdom of Great Britain called England, to anſwer to the ſaid challenge in manner and form as it is above alledged; and this he is

is ready to verify; wherefore he prays judgment, and that the array of the ſaid panel may be affirmed, &c.

E. GIBSON.

Joinder to the laſt demurrer.

And the ſaid J. W. &c. &c. ſince that they have above alledged ſufficient matter in law in the ſaid challenge by them above made to the array of the panel aforeſaid to quaſh the array of the ſaid panel, which they are ready to verify; which ſaid matter the ſaid Samuel, lord biſhop of Cheſter, does not deny nor in any manner anſwer thereto, they as before pray judgment, and that the array of the ſaid panel may be quaſhed, &c.

D. POOLE.

Demurrer to an indictment.

AND the ſaid defendants, by A. B. their attorney, come, and having heard the ſaid indictment ſay, that our ſaid lord the king ought not any further to impeach them the ſaid defendants on occaſion of the premiſes whereof they are by the ſaid indictment accuſed, becauſe they ſay, that the ſaid indictment, and the matter therein contained, are not ſufficient in law to compel them the ſaid defendants to anſwer thereto; and that no proceſs upon the ſaid indictment ought by the law be made againſt them the ſaid defendants; and this they are ready to verify; wherefore they pray the judgment of the court here, and that they may be diſmiſſed and diſcharged from the ſaid indictment. V. LAWES.

Demurrer to an indictment in order for defendant to obtain judgment where he had made an end with the proſecutor.

AND now, that is to ſay, on Tueſday next after three weeks of the day of St. Michael, in this ſame term, before our ſaid lord the king at Weſtminſter, cometh the ſaid defendant, by A. B. his attorney, and having heard the indictment ſhe ſaith, that ſhe did not think that our ſaid lord the king ought any further to impeach or trouble her the ſaid defendant any further on occaſion of the premiſes aforeſaid, becauſe ſhe ſaith that the ſaid indictment, and the matters therein contained, are not ſufficient in law, and that ſhe need not, nor is ſhe bound by the law of the land to anſwer thereto; wherefore for the inſufficiency thereof ſhe prays judgment, and that ſhe may be diſmiſſed and diſcharged by the court hereof, and of the premiſes aforeſaid. H. PARTRIDGE.

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441. Similar demurrer; with cauſes.

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40. Special demurrer to 1ſt count of a declaration in *aſſumpſit* on an agreement, with cauſes, for that it is not ſtated plaintiff was ready or tendered to execute articles within one week following the making the agreement; that it does not appear any articles were ever drawn; not ſtated that defendant made default; hath not averred any ſpecial requeſt of the ſum of one hundred

and fifty pounds money to be paid, or twenty pounds to be forfeited; not ſufficiently ſtated that defendant forfeited or became liable to pay ſaid twenty pounds agreed to be forfeited; and in other reſpects informal, &c. To the remaining count, except one pound eleven ſhillings and ſixpence, *non aſſumpſit*; and as to that ſum tender, and *toute temps priſt*; concluding with a verification.

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465. Cauſe of demurrer, for that declaration is entitled of Hilary Term, and relates to the firſt day of that term, twenty-third day of January, whereas cauſes of action had not accrued before the tenth of February ſubſequent.

466. Demurrer, for that plaintiff has brought action as *adminiſtratrix*, but does not alledge that J. F. died inteſtate, or by whom ſuch adminiſtration was committed, or at what time, or at what place.

467. Demurrer, for that declaration alledges defendant to be in cuſtody of the ſheriff of Middleſex, but does not ſhew by virtue of what writ or proceſs, as he ought to have done.

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467. Demurrer to each count of a declaration in covenant, for not ſhewing that the leſſor had ſuch an intereſt as enabled him to make the demiſe; for that the leaſe is void, being granted for a longer term than plaintiff poſſeſſed; the declaration argumentative, and the breaches *double* in the inſtances pointed out. *See* the Declaration, *p.* 461.

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208. Demurrer (to declaration in debt at the ſuit of the Plumbers Company, for penalties incurred by defendant, a freeman, not paying his quarterage to the company on a bye-law) for not ſhewing that any quarterly meetings were held, or that defendant had notice of them, *or* that he did *not* bring the money to the common hall; or that the maſter was there to receive it; and declaring for ſeveral forfeitures and defaults as a ſingle one.

383. Demurrer to declaration in debt on bond by adminiſtrator of obligee againſt the heir, together with the *deviſee* of the deviſee of obligor on the ſtatute of Fraudulent Deviſes, 3. & 4. W. & M. c. 14.; with opinion on the demurrer.

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75. Demurrer to declaration in debt on recognizance of bail, with causes, "for that declaration is entitled generally of Hilary Term, in the twenty-fifth year of his present majesty, which relates to the first day of that term, being the twenty-fourth of January in that year; and it is also stated, that the judgment in the said declaration mentioned was affirmed in exchequer on Monday, the thirty-first of January, in the said twenty-fifth year, which is subsequent to exhibiting bill; and it appears from the face of the declaration, that the pretended cause of action had not accrued at the time of exhibiting bill."

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142. cattle specified. Joinder.

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Special demurrer, with causes, to declaration in *covenant*, on charter party, to employ a ship which had been prize, as soon as condemned. Causes, for that it does not appear that the ship had been legally condemned by a court of competent jurisdiction; and how the property of plaintiff; or cause or right of action against defendant; or that commissioners had authority to condemn as lawful prize, 1. T. R. 675

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hath not ſhewn whether, by *grant*, *preſcription*, or *ownerſhip*, of the *port*, to receive; not averred that they are *reaſonable*; counts too general, and do not contain certain claims, &c.	1. T. R. 616
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24. Demurrer to plea in abatement of an indictment; and joinder.

25. Special demurrer with cauſes to plea *in abatement* of want of proper additions; that defendants ought to have *ſevered*; that they have not *averred* their additions; have not ſet forth a defective writ, nor ſhewn that proper additions are wanting; no iſſue taken; that it is pleaded in abatement of the *whole* writ, whereas it ſhould have been of defendants only; and joinder. *See infra.*

26. Special demurrer by a ſeventh defendant ſued by the name of Peter that his name is Nicholas; for that it appears on the record that he is declared againſt by the name of Nicholas; that defendant had changed the *venue* in his plea without neceſſity; and given no *venue* where iſſue may be tried; not ſhewn any defect in the original writ, or that he was not properly named there; and that he has improperly pleaded in abatement of the whole writ. *See ſupra.*

28. Special demurrer (to plea in abatement that promiſes were made jointly, and not ſeparately), that it ought to have been pleaded in bar. Joinder.

34. Joinder in demurrer to a plea in abatement, and judgment by default.

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72. Demurrer and judgment to plea in abatement in an appeal of murder for miſnaming the pariſh.

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242. Replication and demurrer to 2d plea, that the other defendant being outlawed reſided in Spain, and that Cornwall is the next Engliſh county, traverſing that London is.

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78. Demurrer book in an action by huſband and wife, executrix of a former huſband, for uſe and occupation in the teſtator's life-time. Pleas (*p.* 79, 80, 81. *and ſee* Pleas *by* Executors in Aſſumpſit, *Vol.* III. Index xxvi.).

82. REPLICATION, iſſue on defendant's pleas, except as to ſo much of the third as attempts to *ſet off* the money ſuppoſed to be due to defendant by virtue of the bond therein mentioned; and SPECIAL demurrer to that, becauſe it endeavours to ſet off a debt due and owing to defendant and Elizabeth his

83. wife; and that it is otherwiſe informal. Joinder in demurrer and iſſue.

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183. Demurrer to a *plea* of tender, for not averring the plaintiff refuſed to accept the money; with caſes.

184. Special demurrer to plea of tender, for being in bar of full damages, and being made on a different day than mentioned in the third count of the declaration, making the day material; and iſſue as to the exoneration mentioned in 3d plea.

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331. General demurrer to ſome pleas in covenant, and *iſſue* on the laſt; and joinder; and iſſue on the laſt plea.

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29. Special demurrer to pleas in covenant, with cauſes. Replication to other pleas. Demurrer to laſt plea, Joinder in both demurrers. Continuances. *Venire tam quam.* (*See the* Declaration, Pleas, Replications, &c.)

50. Demurrer, for that defendant has alledged as a fact, that the covenants were made in reſpect of the reſpective eſtates and intereſts which is not matter fit to be averred, or upon which iſſue can be taken; and if fit does not ſhow in reſpect of which of the eſtates and intereſts covenants were made. Other cauſes.

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325. Replication and demurrer to plea in covenant, that plaintiff could not make a good title, and that plaintiff cut down a quantity of timber, whereby plaintiff was

326. diſabled from fulfilling, &c. Joinder; with practical note.

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357. Demurrer to plea, denying plaintiff's performance to be a *condition precedent*; ſhewing for cauſe that defendant
358. had not ſhewn a performance on his part. Joinder, demurrer, and arguments of the court giving judgment for defendant.
376. Demurrer to plea, that obligor died and made his will, and deviſed all his lands to defendants in truſt, to be ſold for the payment of his juſt debts, and that there are other creditors beſides plaintiff, and that the lands are not ſold; with ſpecial cauſes—and Vol. VII. p. 422.
403. Replication and iſſue, and demurrer to plea, with cauſes, that it does not appear that the bond mentioned in the releaſe, and that mentioned in the declaration, are one
404. and the ſame, or that the ſaid writing obligatory is deſtroyed by the releaſe; with practical note.
443, 444. Replication and *demurrer* to certain pleas. Rejoin-
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446. and demurrer to the rebutter, and joinder.

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50. Replication to ſome pleas, and iſſue. *Demurrer* to ſecond plea.
372. Demurrer to plea of bill filed in the ſame term by an informer, and judgment in bar (in debt on ſtatute for
373. ſelling cattle alive), and joinder; with practical notes and caſe.

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86. General demurrer and joinder to *cognizance* in replevin.
[*For further* Demurrers to Avowries and Cognizances, *ſee p.* 142, 143, 144. Vol. VIII. *with very ſpecial notes and caſes cited.*]

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309. Special demurrer to pleas that words were written by defendant in a will which defendant prepared by order of teſtator, and on his retainer. Cauſes; for that ſaid defendant hath not in his ſaid plea averred any *venue* or place where he was retained, or where ſuch orders were given, for it amounts to the general iſſue, and no concluſive iſſue can be taken, &c.; with note and caſes.

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474. Demurrer to *challenge* to the array. Joinder.
475. Demurrer to an indictment.
476. Demurrer to an indictment, in order for defendant to obtain judgment where he had made an end with the proſecutor.

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Demurrer to a plea, and joinder, - - -	1. R. P. B. R. 217
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Demurrer generally to third plea by plaintiff, as being bad in point of ſubſtance. Joinder, - -	*Ibid.* 385
General demurrer to plea, and joinder, - -	1. R. P. B. R. 218
Demurrer to cognizance in replevin, with cauſes. -	2. R. P. C. B. 313
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General demurrer to plea in abatement, and joinder, -	Pl. Aſſ. 306
Special demurrer to plea by infant *of infancy*, for beginning "and *the ſaid* A. W. who is ſued by the name of H. F. for that ſuch perſon as A. W. is mentioned in the declaration,"	3. Wilſ. 413
General demurrer and joinder to plea in bar, taking iſſue on traverſe to conuſance in replevin. Interlocutory judgment. Enquiry awarded, and final judgment, - -	Lill. Ent. 351
Special demurrer to plea in bar to avowry and conuſance, that the matter traverſed is not traverſable, and that it is traverſed otherwiſe than alledged in the declaration. Joinder, - - -	*Ibid.* 365
General demurrer. Joinder to a plea in bar to conuſance to declaration in replevin, for ſeizing a cow as a *diſtreſs* for a *fine* in the plaintiff's not taking upon himſelf the office of a conſtable in a court leet, - - -	*Ibid.* 370
Demurrer and joinder to plea in bar in replevin, -	*Ibid.* 376, 377
Demurrer to plea in bar in an action on the caſe for falſe return of a *mandamus*. Joinder, - -	3. Ld. Raym. N. Ed. 6
Demurrer to avowry and conuſance in replevin, -	*Ibid.* 84. 143
Demurrer to plea in abatement (that plaintiff is a knight). Joinder, - - -	*Ibid.* 31, 32
Demurrer to plea in abatement (that another action is depending for the ſame debt), and joinder, -	3. Ld. Raym. N. Ed. 55
Demurrer to conuſance in replevin, and joinder, -	*Ibid.* 84
Demurrer to plea in bar to an action of debt for rent, with ſpecial cauſes ſhewn. Joinder, - - -	*Ibid.* 93
Demurrer to plea in bar to the firſt count only of the declaration. Joinder, - -	*Ibid.* 97, 98
Demurrer to plea of damage feaſant in the new orchard; traverſing *locus in quo* in the declaration, - -	*Ibid.* 114
Demurrer to plea in abatement of the writ in a *quod permittat*, and joinder, - -	*Ibid.* 183
Demurrer to plea in *formedon*, and joinder, - -	*Ibid.* 219
Demurrer to plea in *dower*, and joinder, - -	*Ibid.* 235
Special demurrer to plea in bar, that defendant was an inhabitant of another dioceſe, - - -	*Ibid.* 316
Demurrer to *plea in abatement* to firſt count, and to the general iſſue pleaded to ſecond count, and joinder, -	*Ibid.* 338
Special demurrer to plea by the coroner and attorney *to a challenge to the array* (ſheriff being a citizen and freeman, and had paid a ſum of money towards defraying the expence of the proſecution), that the panel ought not to be quaſhed, becauſe the ſpecial jury was ſtruck by a rule of	

court

	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
court of B. R. " for that the rule of court of B. R. was not brought into court, and having traverſed matter not alledged in the plea, and joinder," - -	Cl. Aſſ. 43
Demurrer to plea in *account*, and joinder, - -	Mod. Ent. 47
Demurrer to plea in *aſſumpſit*, that defendant had traverſed matter not traverſable, and that plea was deficient in form, and joinder, - - - - -	*Ibid.* 117
Demurrer to plea in *aſſumpſit* on policy of aſſurance, that the ſhip arrived in ſafety; with traverſe that the ſhip, tackle, &c. were all drowned, " for the plea is argumentative, negative, pregnant, uncertain, and defective in form. Joinder, and judgment for plaintiff, - -	*Ibid.* 236
Demurrer to plea in covenant on indenture of demiſe, brought by heir of leſſor for repairs, " that after the leaſe made, and before the premiſes fell down to the ground, defendant aſſigned, and that premiſes were burnt down by the great fire, and were repaired after within convenient time. Cauſes of demurrer, that defendant does not ſet forth in his plea by *whom* the meſſuage was rebuilt, or *within what time* after it was burnt down, and plea uncertain, negative pregnant, and defective in form," - - -	2. Mod. 42
Special demurrer to plea, that bond was given, &c. in an action of *aſſumpſit* on a bill of exchange againſt the *executrix* of acceptor, " for that plea did not aver that J. J. the elder had been damnified by non-payment of bond given jointly with the teſtator, and that defendant did not ſhew how or by what means it became forfeited," - -	5. T. R. 307
Special demurrer to plea to an action of treſpaſs and falſe impriſonment, that no cauſe of action was ſhewn, for which the plaintiff was liable to be arreſted, &c. - -	3. T. R. 183
Special demurrer to plea to *debt* on bond, for concluding with a verification, and not to the country. Joinder, -	Lill. Ent. 186
Special demurrer to plea to *debt* on bond of payment of money *before* the day, for not pleading it as a payment *on* the day, the other being matter of evidence only to prove that iſſue, and for that, that the plea is not iſſuable. Joinder, -	*Ibid.* 128
Special demurrer to plea in abatement in treſpaſs, for not ſhewing what pariſh, town, or place the defendant broke the cloſe, - - - - - -	*Ibid.* 128
Demurrer to plea in abatement, - - -	*Ibid.* 4
Demurrer to cognizance as bailiff of the lord of the manor, for taking a mare for a fine for not taking upon himſelf the office of conſtable, - - - -	1. Ld. Raym. 69
Demurrer to plea of juſtification, preſcribing in a right of fiſhery, deducing a title, proteſting that defendant was not ſeiſed in fee, and that the *eaſement* was not a neceſſary one. Joinder, and *venire* awarded, - - -	2. Lill. Ent. 450
Demurrer to plea in bar to conuſance, - - -	Gilb. Rep. 192. 209
Special demurrer to plea to declaration for a *libel*, that plaintiff had been diſhoneſtly concerned with ſwindlers, and guilty of fraud with divers perſons in his tranſactions, cauſes that defendant hath not ſet forth in *what manner* plaintiff was diſhoneſtly concerned, or ſhewn any particular perſons,	

	Precedents *in* Books *of* Practice, Reporters, &c.
or *in what tranſactions*, or any time and charges, are too general and uncertain. Joinder, - - -	1. T. R. 749
Declaration to plea of Inſolvent Debtor's Act, 2. Ann, c. 16. *as to the perſon.* Joinder as to perſon, and apparel and bedding not exceeding in value ten pounds, - - -	2. Ld. Raym. 1263
Demurrer to plea of juſtification, damage feaſant, traverſing the place in the declaration in an action of treſpaſs, "that defendant traverſes matter not traverſable,	3. Ld. Ray. N. Ed. 115
Demurrer to cognizance by bailiff of diſtreſs for rent arrear, that it doth not appear by the cognizance one hundred and twenty pounds, or any part thereof, was ever demanded. Joinder, and judgment *de retorno habendo*, - -	*Ibid.* 142

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62. Demurrer to replication to plea of alien enemy in abatement, and joinder.

63. Demurrer to replication to plea of commorancy in abatement, and joinder.

IN ASSUMPSIT.

243. Demurrer to replication of *tiel record* to a plea of *nul tiel record* of outlawry, with cauſes; for that it appears by the ſaid replication the writ upon which it is above ſuppoſed the ſaid L. was outlawed is not the ſame writ upon which the ſaid T. declared, but another and various form, and replication double, &c. (This was an action againſt acceptors of a foreign bill of exchange, partners, where one was outlawed, who reſided in Spain.) Joinder in demurrer, prays judgment.

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371. General demurrer to replication to plea in covenant, and joinder.

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328. Demurrer to replication; cauſes, that plaintiff traverſes the matter contained in the plea, to wit, that the ſaid writing was given for money won at play; and concludes traverſe to *the country*, whereas by practice and authorities it ſhould conclude to the court; and with an averment.

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416. General demurrer to replication, and joinder, *cur. adv. vult.*

468. Demurrer special to replication, that principal did not die before, &c. to plea that he died, for that plaintiffs have not by their replication set forth, or doth it appear that they sued out *ca. sa.* or that writ was duly returned before exhibiting, &c. or that the said W. G. was alive at the time of the return, and in other respects uncertain, &c.

474. Causes of demurrer to replication, that it concludes with an averment, whereas it should conclude to the country, and in other respects. Plaintiff replied, writ of *ca. sa.* sued out. Judgment for defendant.

IN DOWER.

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158. Demurrer to replication to plea of *ne unques accouple* in *dower*, with causes, that the said marriage alledged is not such, whereby plaintiff can claim dower; that plaintiff hath not laid any place by way of *venue*, where the marriage was had; that she hath concluded to the country; hath attempted to draw to trial by the court what is of ecclesiastical cognizance. Joinder, *cur. adv. vult.*

IN FORMEDON.

198. Demurrer, with causes to replication to plea in *formedon*, for that replication does not traverse or confess and avoid, or directly answer, but by inference, and that matter pleaded is only matter of evidence. Issue on third plea. Demurrer to replication to last plea.

199. Joinder in demurrer.

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52. Demurrer to replication to plea in abatement in *quo warranto*, and joinder. Judgment of *respondeas ouster*. Plea over, &c. &c.

103. Rejoinder to replication to some pleas, and demurrer to replication to others in *quo warranto*. Surrejoinder,

105. and demurrer to rejoinders.

113. 152. 160. 343, 344. Demurrer to replication in *quo warranto*, and joinder.

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91. Demurrer with causes to replication; of separate maintenance by deed, to plea of *coverture*, for that matter contained

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contained in replication is not a legal anſwer, and have not ſet forth the date or the parties, &c. the ſubſtance of the deed, nor account of ſuch pretended maintenance, nor when payable, nor brought into court a counterpart; and offers to put in iſſue a matter foreign, and in other reſpects, &c. with note and caſe.

92. Demurrer to replication (that defendant, before promiſes, eloped and lived in adultery); to plea of coverture, with cauſes, for that replication is not an anſwer, but a direct admiſſion of the fact, and endeavours to bring in iſſue ſeveral diſtinct matters, and in other reſpects uncertain, &c. Joinder, prays judgment of *reſpondeas ouſter. Cur. adv. vult. Dies datus.* Arguments, and caſes.

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465. Demurrer to replication to plea of no award made to debt on arbitration bond.

536. Demurrer to replication to debt on indemnity bond.

548. Demurrer and joinder to replication in debt on bond of indemnity.

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18. Demurrer to replication to pleas in bar to avowries, with cauſes; firſt, not taking iſſue on the words of the traverſe; ſecond, inſufficient in other reſpects. To 2d replication, that it concludes to the country, and ought to have concluded with a verification. Joinder in the demurrers, with practical note.

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76. Demurrer to replication to plea in bar in replevin, that replication concludes with an averment, whereas it ought to have concluded to the country, and puts in iſſue ſeveral matters, when it ſhould put one ſingle matter only, and uncertain, &c.

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207 to 114. Rejoinders to replications, taking iſſues. *Demurrer general* to other replications. Surrejoinders, taking iſſues, and joinder. Demurrer. Continuances. (Duberley *v.* Page.)

354. General demurrer to replication, and joinder in treſpaſs, *cur. adv. vult.*

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Demurrer to replication to plea in bar to an action of eſcape after judgment and execution, and joinder, -	3. Ld. Ray. N. Ed. 216
Demurrer to replication to plea to an action of treſpaſs for taking plaintiff's goods, of diſtreſs for non-payment of a rate made by commiſſioners under an incloſing act, ſtating that defendants repaired other roads than in the plea mentioned, which defendants were not bound to repair, and that defendants took the goods *de injuria ſua propria*. Cauſes, that replication does not alledge which of the roads in particular were out of the juriſdiction, or *by whom* or *how* the ſame was liable to be repaired, - - -	5. T. R. 185
Special demurrer to replication to plea to debt on bond, -	*Ibid.* 118
Special demurrer to replication to plea in *ſcire facias* againſt bail, that no judgment was obtained againſt the principal, and joinder, - - - -	*Ibid.* 410
Special demurrer to replication of full age on non-age aſſigned for error, and *ſcire facias* awarded, for that plea does not ſtate the town, county, &c. where ſaid T. F. was of full age. Joinder, and judgment for plaintiff, - -	Lill. Ent.
Special demurrer to replication to plea to debt on bond of ſtatute of gaming, that debt was juſtly due, and not for ſecuring, &c. Cauſes, " that an iſſue was tendered, whereas replication ſhould have concluded with an averment, and that replication attempts to put two points in iſſue, whereby it is double, and that it contains traverſe of part of matter in the plea, with proper matter of inducement, and concludes to the country inſtead of with a verification," - -	2. T. R. 439
Demurrer to replication to plea of juſtification in treſpaſs, for " that the replication is double and triple in juſtifying the entry, and alſo aſſigning another aſſault, and in traverſing aſſault already acknowledged, ſuperfluous, redundant, uncertain, and informal," - - -	3. Ld. Ray. N. Ed 112
Demurrer to replication to plea in bar to an avowry. Cauſe, " that replication prays judgment and his damages, but does not pray a return," - - -	Holt's Rep. 539

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165. Surrejoinder and demurrer to rejoinder, in *quo warranto.*

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72. and 467. Demurrer to rejoinder, with causes, for that defendant hath not by his rejoinder confessed, traversed, or denied the replication, but hath offered an issue upon a collateral and foreign point, and only traversed the evidence of the fact and not the fact itself; and concluded to the country; for as the point and issue can only be the record of the writ mentioned, rejoinder should have been concluded with a verification to the court, or should have merely negatived the fact in the replication, and in other respects, &c. Joinder, *cur. adv. vult.*

346. Demurrer to *surrejoinder*, with causes, for that the *surrejoinder* does not sustain the replication, but is a departure therefrom, in this, that plaintiff's replication in order to maintain *priority of suit* hath pleaded that he sued out a *latitat* on the *thirteenth of June*, in the second year, &c.; and by his surrejoinder insisted, that *latitat* was sued out at a different time, to wit, on the *first of July*; and for that plaintiff hath not traversed or denied service of *latitat* sued out *by G. L.* to be before service of latitat by plaintiff, and in other respects. Joinder, and judgment of *respondeas ouster.* (In this demurrer for *rejoinder* read *sur*-rejoinder in the two last lines.)

427. General demurrer to rejoinder, and joinder in demurrer.

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6. Demurrer to rejoinder in replevin, with causes, for that although plaintiff has concluded his replication with a direct traverse of a material fact alledged in plea in bar, yet has not tendered an issue on the fact traversed, but attempted to put in issue matter of *inducement*, and to put in issue matter altogether unnecessary, stating particularly what does not maintain plea, but is
7. a departure; and although he has denied only one of the matters alledged in replication, hath concluded to the country instead of with a verification; with notes and cases.

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94.	Demurrer to rejoinder in replevin, praying judgment and a return for cauſe, that the value of the lands remain in eſtimation, and cuſtom void in law. In this demurrer read void *in* law for *of* law. Joinder.	
	Demurrer to rejoinder in *replevin*, - - - -	1. R. P. B. R. 219
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	General demurrer to rejoinder as to cloſes called Wall Park, and the three pieces, and joinder, - - -	2. Wilſ. 139
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	Demurrer to rejoinder in *replevin*, with cauſes, that the value of the land is in *eſtimation*, and the cuſtom uncertain Joinder. Continuance. Judgment for plaintiff. Inquiry awarded, and return, - - - - - -	2. R. P. C. B. 366
	Special demurrer to rejoinder in replevin. Joinder thereto. Judgment for the plaintiff. Inquiry and final judgment,	Lill. Ent. 373
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	Special demurrer to rejoinder, becauſe rejoinder did not take iſſue upon plaintiff's traverſe, but traverſed matter alledged by plaintiff as *inducement*, - - - -	*Ibid.* 437
	Special demurrer to ſurrejoinder, for being a departure from the replication, which ſtates a *latitat* ſued out by plaintiff on *thirtieth of June*, but ſurrejoinder alledges that it iſſued the *firſt of July*, and for not traverſing, &c. the priority of ſervices of *latitat* averred in defendant's rejoinder, -	3. Burr. 1426
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105.	Surrejoinder and demurrer to rejoinder, in *quo warranto*.	

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5, 6.	General demurrer to aſſignment in error, and joinder.	

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DEMURRER TO SCIRE FACIAS.

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Special demurrer to declaration in *scire facias* by assignees of bankrupt, to revive a judgment which stated he became a bankrupt within the meaning of the statutes, &c. and that his goods and chattels were afterwards in due manner assigned to the plaintiff. Causes, "that it does not appear any commission issued, or that bankrupt was a trader, or committed an act so as to be liable; or by whom or in what manner goods, &c. were assigned, or that the same were assigned by deed; and no profert of deed. Joinder in demurrer," -	2. T. R. 45
Demurrer to *scire facias* in an assize of novel disseisin for an *administratrix*, for damages adjudged in C. B.; and judgment of reversal in B. R. which judgment is reversed in parliament; and joinder, - - - -	Lill. Ent. 653

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181. Demurrer to plea for insufficiency pleaded by inhabitants to an indictment for not repairing the highways.

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62, 63. Demurrer and joinder to an information, *quo warranto*. *Cur. adv. vult.*

301. Demurrer for consultation in prohibition, and joinder.

408. Demurrer to indictment, for not repairing a highway, removed into B. R. by certain inhabitants in the name
409. of the rest. Joinder in demurrer by clerk of the crown in B. R.

	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
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104. Plea (to *aſſumpſit* on a wager) by adminiſtrator; firſt, *non aſſumpſit* by teſtator; ſecond, *plene adminiſtravit* by adminiſtrator; third, *plene adminiſtravit præter*, ſeveral bond debts to defendant's ſelf and others, and alſo ſeveral debts due to defendant on ſimple contract and five pounds aſſets, which is inſufficient to ſatisfy them; with notes on the pleas.

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144. Declaration by original in *aſſumpſit* for a *legacy* againſt *executor*. (This action will not lie.)

145. Declaration in B. R. by *huſband and wife* againſt executor for a legacy, and notes.

146. Declaration by original for a ſhare of a legacy left on the death of teſtator's wife, and ſurvivor of one of the legatees, againſt one executor, the other having renounced.

148. Declaration in B. R. againſt an executor, for a legacy payable to plaintiff when he attains twenty-one; with note.

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149. Count for uſe and occupation of tithes at the ſuit of executrix of a *vicar*.

200. Plea of *ne unques executor* to declaration in B. R. in *aſſumpſit*, againſt *baron* and *feme* ſued as executor and executrix, where *feme* being widow of inteſtate, is only liable as executrix *de ſon tort*. Replication, taking iſſue, and praying judgment of aſſets *in futuro*; with note.

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204. Declaration in B. R. in *aſſumpſit* by adminiſtratrix, widow, to ſerjeant at mace to the ſheriff of London for fees againſt an *attorney* of B. R. *ſurviving partner* of another attorney, for executing writs, &c.

208. Declaration in C. B. in *aſſumpſit* againſt executor of executrix of ſurvivor of two perſons, joint contractors, for cattle ſold and delivered.

211. Declaration in C. B. by executor of an executrix of ſurviving co-executor on a promiſe by the teſtator for ſalary and wages of plaintiff as an hired ſervant.

214. Declaration in B. R. by A. and B. *adminiſtrators cum teſtamento annexo de bonis non* of adminiſtrator for the uſe and hire of a wharf and divers warehouſes.

216. Declaration in C. B. by adminiſtrator for foreign money (rupees) lent and advanced by inteſtate to defendant.

216. Declaration in B. R. in *aſſumpſit* for ſeveral fines due on admiſſions to ſeveral diſtinct ſets of copyhold premiſes, againſt *baron and feme, adminiſtratrix de bonis non*, with notes.

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227. Notice of *ſett off* to an action brought by an executor. (*See* FORMS.)

BILLS OF EXCHANGE.

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252. to 260. Count by *executrix*, payee *v.* drawer of a bill of exchange, which was not paid when due, whereupon teſtator accepted a bond from acceptor, and on the promiſe of defendant if default ſhould be made in the bond he would be reſponſible. PLEAS, 1ſt, *non aſſumpſit*; 2d, *actio non accrevit infra ſex annos*; 3d, ſett off; 4th, payment of part of principal and intereſt due on the bond, and that acceptor made another bond for payment of the reſidue, which teſtator accepted in ſatisfaction and diſcharge of the former, and alſo in full diſcharge of the promiſe and undertaking of the defendant; 5th, ſimilar plea, ſtating latter bond to be accepted in diſcharge of bond only; 6th, that teſtator accepted laſt bond in diſcharge of promiſe, &c. only; 7th, teſtator accepted, &c. as and for a new ſecurity for principal and intereſt remaining due. REPLICATION to 2d plea, that teſtator ſued out original, returnable in C. B. but died before the return, and that plaintiff as executor and executrix within one year afterwards ſued out another writ, and that cauſe of action did accrue within ſix years; to 3d plea, iſſue on the ſet off;

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off; to 4th, proteſting not ſufficient in bar, admits that acceptor paid part, and proteſting that he did not make ſuch other bond, teſtator did not accept the laſt bond in ſatisfaction of the former, and promiſes, &c.; to 5th, plea ſimilar replication, did not accept in ſatisfaction of former bond; to 6th, in ſatisfaction of promiſes, &c.; to 7th, proteſting as before, that acceptor did not ſeal, &c. by way of new ſecurity.

299. Count in *aſſumpſit* by adminiſtratrix payee againſt acceptors, who were partners, againſt drawers of a foreign bill of exchange drawn by one for himſelf and the reſt in copartnerſhip on R. W. another of them, and authorized to accept for the firm after acceptance, R. W. and ſeveral other partners being ſince dead.

305. Count on a foreign bill of exchange indorſee of executrix of payee *v.* drawer indorſed after time for payment.

311. Declaration in B. R. in *aſſumpſit* on a bill of exchange for foreign money at the ſuit of *executors* of indorſee *v.* indorſor.

321. Declaration by *executors* of third indorſee *v.* drawer after proteſt for non-acceptance and non-payment of bill, ſecond of exchange, firſt, third, and fourth of ſame tenor and date unpaid, drawn at Charleſtown, N. A. upon Ireland.

328. *Declaration* on a bill of exchange, *executors* of third indorſee againſt drawer of a foreign bill of exchange, three lines from the top. Plea, *non aſſumpſit*. Suggeſtion of the death of one of the plaintiffs, and *ſimiliter* by ſurvivor.

336. *Poſtea* in *aſſumpſit* by ſurviving executors, one iſſue for defendant, the others for plaintiff.

PROMISSORY NOTES.

342. Count by payee of a promiſſory note againſt the executor of the maker.

343. Executor of payee againſt maker.

347. Declaration by adminiſtratrix, *cum teſtamento annexo* of payee againſt a ſurviving partner, maker.

348. Declaration by adminiſtrator limited until the original will, or copy thereof, ſhould be brought into the archbiſhop's court of payee of note of hand Carolina currency againſt maker for non-payment.

354. Count by *executors* of payee againſt maker on a promiſe to the executors.

363. Declaration in C. B. by *huſband and wife*, adminiſtratrix of her late huſband, on a promiſſory note given by defendant to her late huſband.

366. Declaration in C. B. againſt an *executrix* on a promiſſory note drawn by teſtator in the Eaſt Indies, whereby he promiſed to pay eighteen months after

date,

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date, or six weeks after arrival in England, fifty pounds Payee *v.* executrix of maker.

370. *Præcipe* for declaration by original on a promissory note at the suit of *executor*.

376. Declaration in B. R. against administrator during the minority of intestate's infant son, on a promissory note. (Intestate payee *v.* drawer.)

ON SPECIAL AGREEMENTS.

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7. Declaration in B. R. by executrix and executors for half a year's rent which became due since the death of testator.

17. Declaration in B. R. on a special agreement by the executors of a tenant in fee of certain premises which he had demised by indenture for a term, and then devised reversion to plaintiffs, and then died; after his death plaintiffs purchased a surrender of the lessee of the remainder of his term, and then demised the premises to defendant to hold under the same terms as the former lease. Breaches.

78. Demurrer book and declaration in B. R. by husband and wife, executrix of a former husband, for use and occupation in testator's lifetime, with notes.

[For further pleas, replications, &c. by executors in *assumpsit*, *see* Index to Vol. III. p. 26.]

86. Declaration in B. R. by administrator *durante minoritate* on a special agreement, that plaintiff should convey a leasehold estate by a proper deed of assignment, and that plaintiff should pay defendant purchase money on the second of May next, against defendant for not paying, &c.

109. Declaration in B. R. by surviving executor against defendant for not paying the purchase money for testator's share and interest in a patent for making fictile pipes.

[illegible] Declaration in B. R. by *administratrix* against defendant for not paying plaintiff the thirty-second share of a ship by instalments according to promise.

211. Declaration in *assumpsit* against *administratrix* in consideration that testator would purchase an annuity defendants undertook to guarantee such payment on condition that plaintiff would permit him to sue.

295. Declaration in B. R. against executor by plaintiff who had employed defendant's testator (*an attorney*) to bring an action against one J. W. with whom plaintiff had lived as servant. J. W. was arrested at the suit of the said plaintiff, and bail was put in, but not according to the regular course of the practice of the court of king's palace, whereby plaintiff would

not

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not recover his debt and damages. Plaintiff afterwards arreſted one of the bail, but owing to the bad conduct of defendant in not having the bail plea duly acknowledged before the judges, an action was brought againſt plaintiff by the ſaid bail for falſe impriſonment, &c.

301. Plaintiff executrix of her late huſband employed defendant as her *proctor* and agent to get probate of the will; defendant got a probate, but in the court of the biſhop of Executor inſtead of the prerogative court of the archbiſhop of C. whereby plaintiff was put to great expence in having the will tranſmitted, &c. done.

307. Declaration in B. R. by an attorney againſt executor for buſineſs done.

319. Declaration in B. R. by adminiſtratrix after her intermarriage againſt an *attorney*, who was employed by her teſtator in his lifetime to bring an action for him againſt one A. B. who was thereupon arreſted and committed to the cuſtody of the marſhal for want of bail, and remained ſo until the *neglect* of defendant in not obtaining judgment, whereby A. B. was diſcharged.

322. Declaration in B. R. in *aſſumpſit* againſt the executors of an attorney for *negligence* in their teſtator as an attorney of the palace court in taking ſpecial bail irregularly.

338. Declaration in the county of the city of Coventry againſt *huſband and wife*, adminiſtratrix of a factor for the money ariſing from goods delivered to the inteſtate by the principal.

407. Declaration in B. R. in *aſſumpſit*, in conſideration plaintiff would not put a bond in ſuit againſt defendant, whilſt ſole as *adminiſtratrix* ſhe promiſed to pay both principal on the bond in a ſhort time, action brought after defendant's intermarriage.

442. Declaration in B. R. in *aſſumpſit* by executor in conſideration that plaintiff's teſtator would withdraw a record in an action of treſpaſs when cauſe ready for trial and witneſſes came out of the country, &c. defendant promiſed to pay plaintiff's teſtator fifty
444. pounds and all coſts to the witneſſes. Plea, ſtatute of frauds, with note, and caſes.

462. Declaration in *aſſumpſit* in B. R. plaintiff *co-executor* and only acting one of the will of H. B. had according to ſeveral deviſes adminiſtered aſſets and placed the ſame out in government ſecurities, and defendant on behalf of ſeveral remainder-men applied to plaintiff to transfer, and plaintiff, for indemnity as well of himſelf as the other executors, cauſed a letter of attorney, releaſe, and bond of indemnity to be drawn, but refuſed to execute or ſign unleſs defendant would

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pay for drawing letter of attorney, &c. in conſideration thereof plaintiff would aſſign, defendant undertook to pay, but did not.

470. Declaration in *aſſumpſit* in B. R. by executor and executrix againſt defendant for not having indemnified the teſtator his tenant from year to year, who was ejected from the premiſes by the mortgagee, by which he loſt his crops, and note.

482. Declaration in *aſſumpſit* by adminiſtrator, whoſe inteſtate had delivered to defendant a ſet of bills of exchange to negociate for him on a promiſe to account againſt defendant for receiving the money and not accounting.

517. Declaration in *aſſumpſit* in B. R. by executors of maſter of a ſhip to recover certain gains ſtipulated by a charter-party entered into by plaintiff and the freighters of his ſhip, who became inſolvent and unable to perform their contract, on which account plaintiff was obliged to exhibit his petition againſt the correſpondents of the freighters, who reſided abroad, upon which a ſentence was made that the cargo ſhould be conſigned to one W. L. ſubject to the ſtipulations of the charter-party, and to certain gains to be made by the ſhip in her voyage out and home.

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30. Count againſt an executor for a reward advertiſed for diſcovering a ſervant of his teſtator who had robbed her maſter.

41. Declaration in *aſſumpſit* in B. R. at ſuit of an *adminiſtrator de bonis non* on a ſpecial promiſe to return inſurance money if reſtitution ſhould be made by the Spaniards, who had taken the ſhip.

46. Declaration in *aſſumpſit* in B. R. at ſuit of *adminiſtrator* (to whom adminiſtration was granted as the attorney of the next kin reſiding out of the kingdom) againſt defendant, who had given inteſtate promiſſory notes to pay one hundred guineas when he ſhould be worth five thouſand pounds, in conſideration of five guineas in hand, and in conſideration of other five guineas to pay fifteen guineas when he ſhould be married, averring both events to have happened.

66. Declaration in *aſſumpſit* in B. R. by plaintiffs, ſurgeons, againſt executors for their attendance and adminiſtering medicines to teſtator in his lifetime.

71. Count in *aſſumpſit* on an account ſtated between the executrix of the debtor with plaintiff's teſtator.

74. Declaration againſt an executor at ſuit of an *attorney* (proceeding by writ of privilege) for his fees and diſburſements.

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81. Declaration in *assumpsit* in B. R. for the work and labour of a surgeon and apothecary at suit of *administratrix* against *executrix* of *executrix*.

86. Declaration in C. B. by *administratrix* against *administrator* on his promise in consideration of assets to pay plaintiff a debt due from defendant's intestate to plaintiff's intestate at the time of their deaths.

158. Plea to *assumpsit* by executors, that their testator sold to plaintiff a cow for seven pounds, which at the time of his death was unpaid, and that the executors and the plaintiff agreed to release each other in consideration of defendant's paying the plaintiff thirteen pounds.

[For further Pleas, &c. by Executors, &c. see *Vol.* III. from *p.* 209. to *p.* 246. and 293. 294. and Index to Pleas in Assumpsit, *Vol.* III.]

IN COVENANT.

461. Declaration by executor of lessor, who being possessed for a renewable term, and having demanded but not obtained a renewal, granted a lease for twenty-one years, determinable by lessee at the end of the first fourteen years, against the administrator of the assignee of the lease; 1st, for rent incurred; 2d, for giving up premises out of repair upon determination of the term at the expiration of the first fourteen years pursuant to the proviso. Demurrer to this declaration. (*See* Demurrer, *ante.*)

478. Declaration in covenant by administrator *cum testamento annexo* and legatee of a reversion, and as assignee in the second degree of the reversion of a chattel interest, against the assignee of a lessee for rent accrued during their respective possessions.

488. Declaration in covenant by an executor of a devisee against lessee, who covenanted to keep the premises in repair. Other breaches.

498. Declaration in covenant, lessor against administratrix of lessee for non-payment of rent for lands.

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1. Declaration in covenant in B. R. by executors of lessor, tenant in fee against lessee of lessee for life for non-payment of rent accrued in lifetime of lessor.

2. Declaration in covenant in C. B. by assignee of lessor of copyhold and freehold premises, against executor of lessee to the uses of his will for not yielding up in

11. repair, &c. Plea, that nothing has come to him as executor; 2d, *plene administravit*; 3d, *non est factum*; 4th, performance; variety of other pleas.

15. Replication, issue on each plea.

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22. Pleas to declaration againſt *baron* and *feme* in covenant to very ſpecial by executors, with traverſe. Replica-
38. tion tenders iſſue to firſt plea, and iſſue on the traverſe. Demurrer to 4th plea. Cauſes. Replication to other pleas. Demurrer to laſt plea. Joinder in demurrers. Continuances. *Venire tam quam. Poſtea.* Judgment. Affirmance of judgment on error brought. Aſſignment of errors.

IN DEBT. (*See* HEIRS AND DEVISEES.)

234. Declaration by executors againſt warden of the Fleet for the eſcape of a priſoner committed to his charge in execution by *habeas corpus* directed to the warden, the priſoner being in his cuſtody when the *habeas* iſſued.

153. Declaration on ſtat. 4. G. 2. c. 26. for double rent at the ſuit of executors of leſſor againſt leſſee for not quitting according to notice given by teſtator.

327. Declaration in B. R. in debt at the ſuit of an *executrix* for the arrears of an annuity.

328. Declaration in C. B. in debt againſt defendant and his wife for not paying plaintiff an annuity which was left him by one E. M. who had deviſed lands to defendant's wife, and had made her ſole executrix of his will before her marriage with defendant, and out of which lands the annuity was to be paid, &c.

414. Judgment by *nil dicit* againſt executrix *de bonis teſtatoris ſi non de bonis propriis.*

415. Mercy. *Fieri facias de bonis teſtatoris*, and return of *devaſtavit* by ſheriff, with practical note.

[For further Declarations, Pleas. &c. by and againſt Executors, &c. in Debt, *Vol.* V. from *p.* 362 to the end—and Index to Debt, *Vol.* VII. from *p.* 596. to 605.]

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27. Declaration in B. R. in debt on a charter-party at the ſuit of the adminiſtrator of the owner againſt freighters of the veſſel to recover the penalty for the extra time they took in unloading.

42. Declaration in debt in C. B. againſt defendant and his wife for not paying plaintiff an annuity which was left him by one E. M. who had deviſed lands to defendant's wife, and had made her ſole *executrix* of his will before marriage with defendant, out of which lands the annuity was to be paid.

91. Declaration in debt in B. R. againſt adminiſtratrix in a ſuit in the palace court for coſts of nonſuit of defendant's teſtator.

111. Declaration in debt in B. R. by *adminiſtrator de bonis non* on judgment recovered in B. R. againſt defendant as executor,

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	executor, and affirmed in the exchequer chamber for the original judgment and coſts of affirmance, ſuggeſting a *devaſtavit*.	
441.	Plea to declaration in debt on bond by executors of obligee againſt obligor on three ſeveral bonds, *non eſt factum*.	

IN TORT—TROVER.

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378.	Declaration in trover in B. R. at ſuit of huſband and wife, *adminiſtratrix durante*, &c. with averment that the infant is yet a minor, under twenty-one.	

IN SCIRE FACIAS.

Scire facias by and againſt Executors and Adminiſtrators, *ſee Vol.* IX. *from p.* 544 *to the end of that Volume.*

IN QUARE IMPEDIT.

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92.	Declaration by executors in *quare impedit* to preſent to the church of Ryder, *alias* Ryther, in Yorkſhire.	
95.	Declaration in *quare impedit* by executors to preſent to the church of Burnham Deepdale, in Norfolk.	

PRACTICAL FORMS. (*See* WRITS FINAL.)

272.	Writ of *fieri facias* after a *ſcire facias* againſt a ſurviving executor at ſuit of executors on a judgment in debt.	
301.	*Capias ad ſatisfaciendum* at the ſuit of executrix after *ſcire facias*, and judgment revived in *aſſumpſit*.	
303.	*Capias ad ſatisfaciendum* at ſuit of executor of executrix after *ſcire facias* to revive in C. B. in debt.	
Scire facias by executor after interlocutory judgment, and before enquiry executed, - - -		Imp. B. R. 480
Scire facias againſt adminiſtrator of defendant dying after interlocutory judgment, - - -		*Ibid.* 483
Plene adminiſtravit by an executor. Replication, -		1. R. Pr. B. R. 182. 183
Plene adminiſtravit præter ſeventeen pounds. Replication for the ſeventeen pounds and damages. Judgment, and replication, further aſſets. Iſſue, *Lill. Ent.* 475. -		*Ibid.* 183, 184
That defendant is adminiſtrator, and not executor, *Lill. Ent.* 5.		*Ibid.* 199
That defendant is executrix, and not adminiſtratrix, -		*Ibid.* 201
Debt on bond by adminiſtrator of obligee, *Lill. Ent.* 164.		2. R. Pr. B. R. 242
Debt on ſeveral bonds by adminiſtratrix of obligee, -		*Ibid.* 244
Debt by *baron* and *feme* adminiſtratrix on bond to the inteſtate. Plea, payment according to the ſtatute. Replication. Iſſue, - - - - -		*Ibid.* 247. 250
Debt on bond by adminiſtrator of obligee *durante minoritate*		

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	PRECEDENTS in BOOKS of PRACTICE, REPORTERS, &c.
(where there had been a former adminiſtrator *durante minoritate*) againſt executrix of the obligor, *Lill. Ent.* 177. -	2. R. Pr. B. R. 252
Debt on bond by adminiſtrator *de bonis non* by a late executrix of the obligee againſt *baron* and *feme*, the bond entered into by the wife *dum ſola*, *Lill. Ent.* 166, - - -	*Ibid.* 254
Debt on bond by an adminiſtrator *de bonis non* by a late adminiſtrator of obligee, *Lill. Ent.* 187. - -	*Ibid.* 256
Debt on bond by the executor of the obligee againſt the heir at law of the obligor. Plea, *riens per deſcent*. Replication, that he had aſſets, and iſſue, *Lill. Ent.* 147. -	*Ibid.* 259
Debt on bond by *baron* and *feme*, executrix of obligee, againſt the heir of the heir and deviſee of the obligor, *Lill. Ent.* 172. - - - - - -	*Ibid.* 265
Plea, that obligor paid money at a future day. Replication, that he did not pay, and iſſue, - - -	*Ibid.* 267
Declaration in debt on a bill penal payable at ſeveral times by the obligee againſt *baron* and *feme*, adminiſtratrix of obligor, *Lill. Ent.* 158. - - - -	*Ibid.* 268
Plea, a judgment recovered in C. B. againſt the inteſtate in debt, *ſur mutuatus*, and judgment againſt defendant for a debt on bond due by inteſtate, *plene adminiſtravit*, no goods except ten pounds, which are liable to the judgment. Replication as to one judgment, only thirty pounds was due, which is paid, and the judgment kept on foot *per fraudem*; as to another, only twenty-eight pounds was due, which the plaintiff therein is ready to accept in full ſatisfaction, but have delayed payment, and kept the judgment *per fraudem*; that defendants *aſſets ultra* ſufficient to pay. Demurrer, cauſes, and joinder, -	*Ibid.* 270 to 277
Non eſt factum teſtatoris, - - - -	*Ibid.* 204
Plea by executrix of a bond given by her teſtator, and judgment thereon obtained, with *plene adminiſtravit* in bar of the action brought by plaintiff, - - -	*Ibid.* 55. 97
Like plea. Replication, bond was not for a juſt debt, but upon condition, &c. Demurrer, joinder, and judgment for plaintiff, - - - -	*Ibid.* 71. to 78
Plea by adminiſtrator, no aſſets except twenty-five pounds, to debt on judgment, - - - -	*Ibid.* 97
Declaration in *aſſumpſit* againſt executrix on promiſe of teſtator, *non aſſumpſit* ſpecial, and iſſue, - -	*Ibid.* 119, 120
Declaration againſt executor in conſideration that plaintiff had ſerved teſtator, undertook to provide for plaintiff in a plentiful manner, and uſe him as his own ſon, -	1. Mod. Ent. 116
Declaration againſt executor in *aſſumpſit* by teſtator to pay plaintiff a ſum of money in conſideration of his marriage with one C. - - - - -	*Ibid.* 128
Trover by adminiſtrator, - - -	*Ibid.* 178
Declaration by adminiſtrator for rent due to inteſtate againſt chief bailiff of Lancaſter, after notice purſuant to 8. Anne for better ſecurity of rents and preventing frauds by tenants, - - - - -	*Ibid.* 221.
Declaration for not paying three pounds for a heriot againſt	

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	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
an executor upon a leaſe made to teſtator to commence after death of one S. C. - - - - -	2. Mod. Ent. 43
Declaration in covenant in C. B. on a leaſe for the defendant's aſſignees not permitting plaintiff to make a drain purſuant to a covenant with defendant, leſſor, adminiſtratrix of her late huſband. Plea, that a drain might have been made in a paſſage, and that defendant gave liberty ſo to do, which he refuſed. Demurrer, and joinder, - - -	*Ibid.* 46
Declaration in covenant by an aſſignee of an aſſignee againſt an executor for permitting the premiſes to be out of repair. Several breaches. Plea, ſpecial performance to each breach. Demurrer to firſt part of the plea, -	*Ibid.* 50
Declaration in covenant on a leaſe againſt an aſſignee of executor for non payment of rent. Plea, that defendant aſſigned over the premiſes before any rent due. Demurrer, and joinder. Judgment for part confeſſed on demurrer, and *unica taxatio*, - - - - -	*Ibid.* 54
Declaration in debt in B. R. by plaintiff as executor againſt defendant for goods ſold by teſtator, - -	*Ibid.* 177
Declaration in C. B. in debt on bond by huſband and wife as co-executrix of obligee, and the other co-executrix againſt heir of obligor, - - - -	*Ibid.* 179
C. B. debt on bond by executor on bill penal for ſixty pounds by adminiſtrator of R. againſt defendant as heir of B. - - - - -	*Ibid.* 180
Plea to *aſſumpſit* againſt defendant as executrix of a bill of exchange after pleading four judgments, that teſtator by bond to T. J. the elder to indemnify him from another bond made by T. J. the elder and teſtator for the ſole debt of teſtator to T. S. which at the time of his death was unpaid and forfeited; that defendant has fully adminiſtered, except goods to the value of pounds, which are not ſufficient to ſatisfy the ſeveral judgments. Demurrer ſpecial, - - - - - -	5. T. R. 307
Scire facias at ſuit of adminiſtrator of recoveror in debt againſt terre-tenants of the recoveree, now deceaſed, ſtating *ſcire facias*. Suggeſtion, &c. - - - -	Lill. Ent. 398
By executors of maſter of a ſhip for not conveying goods delivered to him by plaintiff's teſtator to be conveyed from Guinea to London, - - -	*Ibid.* 26
By co-executor for goods ſold by teſtator, - -	*Ibid.* 83
Replication to a plea of judgment recovered againſt defendant as executrix in an action for money had and received by teſtator, praying judgment of aſſets *quando acciderint* as to twenty-ſeven pounds ten ſhillings, *ſi non de bonis propriis* as to coſts, - - - - -	1. H. Bl. 238
Form of a petition for a leaſe of an outlaws lands at ſuit of ſurviving executor, - - - -	Cromp. Pr. 50
Declaration in account by ſome of the plaintiffs in their own right, and by one of them executrix againſt defendant as bailiff of goods, - - - - -	Mod. Ent. 47
Trover by executor for cattle loſt in teſtator's lifetime, -	*Ibid.* 121

Declara-

	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
Declaration by *baron* and *feme*, executrix of leſſor, after whoſe death plaintiff married, againſt leſſee for rent in arrear accruing to plaintiffs after their marriage, - -	Lill. Ent. 163
For rent on leaſe by leſſor under a power contained in a deed to levy and declare the uſes of a fine of premiſes in queſtion to make a leaſe, againſt executor of leſſee for rent accrued as well in the time of teſtator as of executor, - -	*Ibid.* 148
By leſſor againſt executrix of leſſee for rent on leaſe due in her own time. Plea, that teſtator in his lifetime aſſigned his intereſt in the demiſed premiſes, by virtue of which aſſignment aſſignee entered, of which plaintiff had notice, -	*Ibid.* 155
Declaration in debt by huſband and wife, *adminiſtratrix*, for an eſcape after judgment and execution out of cuſtody of bailiff of P. Plea, that before the eſcape *habeas corpus* iſſued to the bailiff, by which writ defendant carried the priſoner to Weſtminſter the neareſt way. Replication, proteſting that *habeas corpus* iſſued, replies a different *habeas corpus* iſſued, and after the return of it he took defendant in the judgment by colour, &c. and brought him to Weſtminſter on, &c. and the ſame day by fraud, &c. the *habeas corpus* in the plea was ſued out, and not before, and by virtue of laſt *habeas corpus* was committed to the Fleet, traverſing, &c. Special demurrer, and joinder, - - -	3. Ld. Raym. N. Ed. 210
Aſſumpſit by adminiſtrator againſt executor. Plea, *non aſſumpſit infra ſex annos.* Replication, that inteſtate within ſix years ſued out original in treſpaſs *quare clauſum fregit* againſt teſtator, with intent to declare for the cauſe in the preſent declaration, that teſtator did not appear, but died. Another writ in treſpaſs was ſued out with the ſame intent; that defendant did not appear, and thereupon plaintiff declared as above, with proper averments, - -	1. Ld. Raym. 432
Declaration in *quare impedit* by executor of grantee of the next turn to preſent, - - - -	*Ibid.* 535
Aſſumpſit by adminiſtrator for goods ſold, &c. defendant prays oyer of letters of adminiſtration, and pleads that at the time of inteſtate's death defendant was an inhabitant of another dioceſe. Demurrer ſpecial, and joinder, - -	*Ibid.* 562
Declaration in debt by leſſor againſt adminiſtratrix and widow of leſſee for rent arrear in inteſtate's time. Imparlances from Trinity to Hilary. Plea as to part, that defendant does not retain; to reſidue, that inteſtate by marriage bond previous to the marriage bound himſelf to leave her one thouſand pounds, but did not, and aſſets to the amount of two hundred and fifty pounds only, which ſhe retains. Demurrer. Joinder. Continuances from Hilary to Hilary two years, and judgment for defendant, - - -	Lill. Ent. 214. to 217
By executor againſt executor as well for work and labour, &c. as money laid out, &c. - - - -	Plead. Aſſ. 9
By adminiſtratrix on note againſt ſurviving partner, -	*Ibid.* 31
Declaration againſt executrix by ſurgeon for attending, &c. teſtator in illneſs, - - - -	*Ibid.* 65

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	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
In conſideration that plaintiff had lent defendant's teſtator ſeventy pounds, teſtator promiſed either to make plaintiff a mortgage, or repay him the money, but did neither, -	Plead. Aſſ. 140
Declaration by executrix of an attorney, for fees, &c. in B. R.	*Ibid.* 153
In B. R. by adminiſtratrix, on note of hand to his inteſtate,	*Ibid.* 230
Declaration in debt on bonds by executor of executrix of obligee againſt obligor. Plea, payment to teſtator and firſt executor of principal and intereſt on each bond. Replication and iſſue, - - - -	*Ibid.* 357
Debt in B. R. againſt adminiſtratrix, on a bond given by teſtator for ſilk. 2d Count, on another bond. Plea, that defendant's teſtator owed debts on bonds, on which obligee obtained judgment againſt defendant, adminiſtratrix, which were in force; and *plene adminiſtravit* as to plaintiff's demand. Replication, that judgments were obtained, and are kept on foot by fraud. Rejoinder, iſſue on the fraud. Mr. Serjeant Draper's directions on the above pleadings,	*Ibid.* 369. 373
Debt in B. R. by adminiſtratrix, againſt executrix, on his teſtator's bond to plaintiff's inteſtate, - -	*Ibid.* 374
Fi. fa. for adminiſtrator againſt an executor, on a judgment in debt *de bonis teſtatoris ſi*, and *ſi non de bonis propriis*, and *nulla bona propria*, and *devaſtavit*, - -	*Ibid.* 512
Fi. fa. de bonis propriis of executor, - -	*Ibid.* 513
Teſtatum fi. fa. into Suſſex for reſidue of debt and damages after *ſi. fa.* into H. upon judgment in debt for one executrix againſt two ſurviving executors, *de bonis teſtatum ſi, ſi non, de bonis propriis*, and a return of *nulla bona teſtatoris, devaſtavit*, and *nulla bona propria*; award of *ſi. fa. de bonis propriis* on the *devaſtavit* to the ſheriff of H. his return of levy and payment over of part, and *nulla bona* as to reſidue, - - -	*Ibid.* 515
Declaration in covenant on a policy of aſſurance by executor, for damage and loſs ſuſtained by fire by teſtator, according to propoſals. Plea, that neither teſtator in his lifetime, nor plaintiff ſince his death, procured ſuch certificate, &c. mentioned in the propoſals. Demurrer and joinder, -	1. H. Bl. 255
Plea by executrix of judgment recovered againſt her of the damages *de bonis teſtatoris ſi*, &c. *Si non* of the coſts and charges *de bonis propriis* upon covenant on marriage articles of her teſtator, for not conveying certain eſtates in conſideration of wife's portion, *plene adminiſtravit ultra* five ſhillings, which are chargeable, - -	Lill. Ent. 100
Declaration in debt on bond by adminiſtratrix, and plea, &c.	2. Wilſ. 380
Plea by adminiſtrator of judgment recovered on a *mutuatus* againſt inteſtate in B. R.; another judgment on bond as adminiſtrator in C. B.; another in debt for rent arrear in time of inteſtate, and *plene adminiſtravit ultra* five ſhillings, which are liable, - - - -	Lill. Ent. 111
Plea in bar to *aſſumpſit* againſt adminiſtrator, that he together with another perſon now deceaſed recovered judgment in C. B. againſt inteſtate in his lifetime, for one thouſand pounds debt, and that defendant hath fully adminiſtered,	

	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
except twenty pounds, which are charged with ſaid judgment, - - - - -	Lill. Ent. 117
Plea by executor, judgment recovered on teſtator's bond. Replication, only fifteen pounds due, which obligee offered to accept and acknowledge himſelf ſatisfied for on record, but defendant keeps the ſame on foot *per fraudem*, and has aſſets ſufficient to ſatisfy ſame, as alſo plaintiff's demand,	*Ibid.* 119, 120
Debt by executor of executor of obligee againſt adminiſtrator of obligor, - - - - - -	*Ibid.* 165
Debt on bond againſt executrix of obligor. Plea, *non eſt factum teſtatoris*, - - - - - -	*Ibid.* 166. 178
Declaration in debt againſt *baron* and *feme*, adminiſtratrix, on a judgment againſt inteſtate, ſuggeſting a *devaſtavit*. Plea, *plene adminiſtravit*, traverſing a *devaſtavit*. Replication, taking iſſue on the traverſe, - - - -	2. R. P. C. B. 226, 227
Declaration in debt on bond againſt adminiſtrator of obligor. Plea, inteſtate indebted to defendant in one hundred and ten pounds, for rent on a leaſe, and on a bond for one hundred pounds. Replication, defendant hath aſſets ſufficient, &c. ſays the indenture mentioned in the plea, and in the condition of the bond are the ſame, and that inteſtate was not indebted to defendant for rent in above thirty pounds. Demurrer. Joinder. Continuance by *cur. adv. vult.* Judgment for plaintiff on demurrer to replication in debt on bond. Satisfaction acknowledged of debt and damages, - -	*Ibid.* 229
Declaration in debt by *baron* and *feme*, againſt *baron* and *feme*, executrix, on a bill made by teſtator to *feme* whilſt ſole, for the payment of twenty pounds *per ann.* - -	*Ibid.* 239
Declaration in debt on bond againſt executors of obligor. Plea, *plene adminiſtravit*. Replication, *mittimus* to Cheſter, - - - -	*Ibid.* 245
Declaration in debt for rent upon articles, againſt adminiſtratrix, accrued in time of inteſtate. Plea, as to paſt *non detinet*. Iſſue as to reſidue, a bond entered into by defendant before their marriage, to leave her one thouſand pounds at his death; defendant and inteſtate intermarried; adminiſtration granted to defendant. Demurrer, joinder, and continuances. Judgment for defendant on demurrer, -	*Ibid.* 252
Declaration in debt againſt executrix, for rent incurred in her own time. Plea, teſtator aſſigned the term, -	*Ibid.* 257
Debt on bond by executrix of obligee againſt brother and heir of obligor, - - - - -	*Ibid.* 294
By executor of obligee againſt heirs and deviſees of obligor,	*Ibid.* 297
Judgment in debt by *nil dicit* againſt executrix, -	*Ibid.* 325
Judgment, with *remittitur* of part of the debt, &c. -	*Ibid.* 325
Sci. fa. by adminiſtrator *de bonis non*, againſt heir at law and terretenants, - - - - -	*Ibid.* 375
Demurrer to replication to plea to *ſci fa.* Joinder, -	*Ibid.* 389
Sci. fa. for executors to revive a judgment obtained by their teſtator. Entry on the roll, - - -	*Ibid.* 480
Sci. fa. by adminiſtrator, againſt bail after judgment affirmed in error, - - - - -	*Ibid.* 413

	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
Declaration in *assumpsit* against one executor after outlawry of other two executors, for goods sold, &c. to testator, -	Lill. Ent. 20
By executrix against executrix for work done by plaintiff's testator for defendant's testator in their respective lifetimes,	*Ibid.* 50
By executrix of deceased husband for the wages of his apprentice, on a voyage to the East Indies, - -	*Ibid.* 53
Plea to *assumpsit*, against administratrix for goods sold to intestate, and on account stated, outstanding debts on bonds. Judgment against defendant as administratrix, on simple contract, and *nul assets ultra* ten shillings, which were not sufficient to satisfy, &c. Replication, as to one bond, that it is partly paid, and that obligee would accept ten pounds in satisfaction. Like replication to the other. Like replication to the judgment, and that she hath assets sufficient. Rejoinder, protesting that no part was paid, saith she hath assets to satisfy the bonds; and judgment and issue, -	*Ibid.* 58 to 60
Declaration against executrix for money lent testator, had and received by him, and laid out for him. Plea, two bonds entered into by testator, and articles of agreement with a master of a ship, with a penalty of five hundred pounds forfeited, and a judgment recovered against her as executrix, by the indorsee of a foreign bill of exchange. Replication, assets *ultra*, and issue. Special verdict and rule for judgment, - - -	2. R. Pr. B. R. 161 to 181
Debt on judgment recovered against executrix, suggesting a *devastavit*. Plea, *nul tiel record*. Replication, *tiel record*,	*Ibid.* 230
Declaration by executrix for non-payment of money promised to testator, in consideration of his not making a distress on defendant's goods for rent in arrear, - -	Mor. Pr. 189
Declaration in debt on two promissory notes payable by instalments, and a *mutuatus* at the suit of administratrix, -	*Ibid.* 548
Plea by grandson and heir of obligor to action on two bonds, at the suit of the executor of obligee; first, *solvit post diem*; and lastly, *riens per descent*. Replication to first plea, denying payment; to last, that defendant hath lands by descent sufficient to satisfy plaintiff his debt. Rejoinder, that defendant hath not lands by descent sufficient to satisfy,	*Ibid.* 652 to 656
Declaration in debt on bond against the executors of an executrix of an obligor. Defendants crave and set out oyer of bond and condition, and first plead payment by the executrix after the day; that plaintiff and executrix did account together, and that she was in arrear and indebted to the plaintiff in four hundred and sixty-six pounds, for which she gave him a bond and a warrant of attorney to confess judgment, which he received in full satisfaction of money due on bond, and judgment entered of record, and *fi. fa.* executed upon goods of executrix for debt and damages; 2d like the first, omitting the *fi. fa.* issued and executed; 3d, *plene administravit*, except goods to the value of ten pounds. Replication to 1st plea, that the executrix did not pay the money after the day, and concludes to the country; to 2d plea, that plaintiff did not accept and receive bond, and war-	

	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
rant of attorney in ſatisfaction; like concluſion; to 3d plea, prays judgment as to the ten pounds, and further ſays, that on the day of ſuing forth original had goods of teſtator to the value of the reſidue over and above ten pounds, concludes to the country, - -	2. Wilſ. 52 to 57
Plea, *non eſt factum teſtatoris*, - -	1. R. P. C. B. 146
Non aſſumpſit by executors, - -	*Ibid.* 147
Teſt. ca. ſa. againſt an executor after *devaſtavit*, -	*Ibid.* 243
Ca. ſa. for damages, againſt an executrix after *nulla bona propria* returned, - - -	*Ibid.* 245
Ca. ſa. in caſe, at the ſuit of executrix, - -	*Ibid.* 246
Fi. ſa. againſt adminiſtratrix, - -	*Ibid.* 248
Fi. ſa. on a judgment by a *feme*, executrix, while ſole, whereupon execution is awarded on a *ſci fa.* at the ſuit of huſband and wife, - - -	*Ibid.* 250
Fi. ſa. in debt after *ſci. fa.* for executors, on judgment recovered by teſtator, - - -	*Ibid.* 252
Elegit on a judgment by *ſci. fa. quare damna aſſidari non debent poſt mortem querentis* brought by executrix, -	*Ibid.* 355
Bill againſt attorney, at the ſuit of adminiſtrator, and *aſſumpſit* for money had and received in lifetime of inteſtate, -	*Ibid.* 262
Habere facias poſſeſſionem for executor, after *ſci. fa.* in ejectment, - - -	*Ibid.* 327
Entry of *ſci. fa.* in debt, by an executor, - -	*Ibid.* 333
Sci. fa. in debt for an adminiſtrator. In caſe, againſt adminiſtrator. In debt, againſt executors, and two *nihils* returned, - - -	*Ibid.* 333 to 336
Award of *ſi. fa.* in debt for executors againſt executrix, -	*Ibid.* 350
Declaration on a *ſci fa.* upon a judgment recovered againſt the defendant, and his wife, ſince dead, executors, - -	*Ibid.* 353
Declaration on *ſci. fa.* on a judgment for aſſets *in futuro*, againſt adminiſtratrix. Suggeſtion of aſſets ſince come to defendant's hands; defendant appears. Sheriffs return *ſci. fa.* Defendant pleads no aſſets come to hand, and iſſue, -	*Ibid.* 356
By executrix, on account ſtated by her with defendant, for goods ſold by teſtator - -	Lill. Ent. 84
By executor, for not tranſferring South Sea ſtock, and the dividend for the ſame, - - -	Plead. Aſſ. 42
Replication to a plea of *non aſſumpſit* within ſix years before the original, that adminiſtration was granted within ſix years, whereby, &c. Judgment for plaintiffs on demurrer, and affirmed in error, - - -	Lill. Ent. 470
Aſſumpſit by original againſt two executors, for beer, &c. ſold by teſtator, - - -	*Ibid.* 476
Entry of ſatisfaction acknowledged in debt, by the executor of the executrix of the obligee, - -	*Ibid.* 483
Debt on bond by executor, againſt three ſurviving co-heireſſes and deviſees, and three ſurviving deviſees, -	*Ibid.* 529
Ca. ſa. for executrix, againſt adminiſtratrix, in debt, -	*Ibid.* 547
Ca. ſa. for executrix, againſt an attorney, after *non proſ.* of writ of error, for not tranſcribing, - -	*Ibid* 548

	PRECEDENTS *in* BOOKS *of* PRACTICE, REPORTERS, &c.
Elegit by administratrix, in debt, after judgment affirmed in error, in exchequer, - - -	Lill. Ent. 571
Plea by executor *de son tort* in *assumpsit*, by simple contract creditor, that after action brought, and before plea pleaded, he delivered over the effects to rightful administrator, and that no administration was granted till after action brought, and retainer for a debt of a superior degree due from intestate. Error and assignment of errors in exchequer chamber. Plea is bad. - - -	2. H. Bl. 18, 19, 20
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439. Plea (to declaration in debt on replevin bond; breach of the condition of the bond was for not appearing at the county court, and proſecuting his ſuit with effect), that the cattle in the declaration mentioned were diſtrained damage feaſant, and not for rent in arrear; and that defendant made a complaint to the ſheriff, who re-delivered the cattle to him, and thereupon took the bond for the damages ſuppoſed to have been done; with notes.

440. Plea to declaration in debt on bond, that defendant delivered the bond as an *eſcrow.* Replication, and iſſue on *eſcrow.* Note, and caſes.

442. Plea to declaration in debt on bond; firſt, *non eſt factum*; ſecond, plea, *ſolvit poſt diem*; third, plea, ſet-off. Replication to the plea.

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446. Plea to debt on bond (*oyer* of bond and condition, which was given by obligor for the *good behaviour* of one A. B. as a clerk), performance of condition by A. B. *Suggestion* of the death of one of plaintiffs. Replication, assigning breaches, that O. H. received several sums of money, and never accounted, but embezzled and spent the same.

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3. To plea of want of proper *addition.*
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7. To plea of *alien* enemy; with notes.
17. To plea that *another joined* in the promise, that defendant promised alone.
27. To plea that promises were by defendant and other partners. Another similar. Replications.
31. To plea of coverture, protesting, &c. that before the cause of action accrued defendant *eloped*, and that work was done at her request, and on her credit only.
33. Replication and issue to plea, that one or two persons promised jointly; with note.
38. Replication to plea of misnomer, that defendant is known as well by one name as the other.
38. To plea of another *addition*, that defendant was a broker, &c.
39. To plea of privilege by an attorney of C. B. that plaintiff is an attorney of B. R. and as such impleaded defendant in B. R. by attachment of privilege.
42. To plea of alien enemy, that plaintiff resided here under liegance and protection of our lord the king.
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48. To plea that promises were jointly made; that they were made separately; and issue.
52. 61, 62. To plea of alien enemy, that he is under the licence and protection of the king.
54. To plea of commorancy at another place; *dies datus* to rejoin.
54. Replication to plea of want of *addition*, that plaintiff sued
60. out original with proper addition. To plea, that promise was made jointly with his partner, that defendant and his pretended partner are one and the same person.

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60. To plea of jurisdiction of an inferior court, that the cause of action accrued within the jurisdiction; with note.

74. To plea in abatement, that one of the defendants died before the writ; and issue thereon.

75. Replication to plea, that plaintiff died *puis darrien continuance*; and issue.

76. Replication (to plea of person *convicted* of felony), the king's pardon.

Pleas, &c. Replications, &c. in Account.

86. Plea to declaration for an account of goods, &c. that the goods were destroyed by fire. Replication, that they were not; and issue.

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101. Plea to declaration on a *wager* in the palace court, concluding to the country.

122. Plea to declaration on *feigned issue* to try a right of common. Denies the right.

132. Plea (to declaration on a *feigned issue* in *assumpsit in the palace court*, to try whether defendant had ever become bail for one H. M. in another action), denies, &c.

133. Plea to declaration on *feigned issue* in *assumpsit*, to try whether and what consideration had been paid for certain warrants of attorney to enter up judgment in C. B.

135. Plea to declaration on *feigned issue* out of chancery in *devisavit vel non* (in C. B.) of freehold and leasehold estates.

138. Plea to declaration on a feigned issue in the exchequer of pleas, viz. *damnificatus vel non præter*, &c. so much by defendant's taking and holding a wrongful possession of plaintiff's house of *non damnificatus præter* forty pounds.

242. Plea to declaration on bill of exchange by drawer against acceptor's partners, one being outlawed; first, *nul tiel record* of outlawry; second, that the other defendant resided in Spain, and that *Cornwall* is the next English county; and *traverse* that London is.

360. Plea (to declaration upon a joint promissory note payable by instalments, p. 357.) first, *non assumpsit*; second, payment and acceptance of a gross sum in satisfaction; third, that defendant with a surety gave a promissory

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note to plaintiffs for a ſum in groſs, in ſatisfaction, which plaintiffs accepted as ſuch, and which was duly paid.

400. Plea, *non aſſumpſit* to an action on a policy of aſſurance. *Venire.*

409. Plea, *non aſſumpſit* to laſt count of declaration after demurrer to two firſt, on policy of aſſurance in *aſſumpſit*; fifth line at the bottom of the demurrer, ſee

418. Plea to declaration on policy of aſſurance on ſhip and cargo; 1ſt, *non aſſumpſit*; 2d, to laſt count tender of fifteen guineas.

139. Plea (to declaration on feigned iſſue in B. R. to a commiſſion of bankrupt, to try whether defendant owed plaintiff one hundred pounds at the time, &c.), that he was not indebted in one hundred pounds.

314. Plea of *non aſſumpſit* to common counts after demurrer to firſt counts of a declaration. Fourth line from the top.

326, 327. Plea to declaration on bill of exchequer; firſt, *non aſſumpſit*; ſecond, *actio non accrevit infra ſex annos.*

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213. Plea to declaration in *aſſumpſit* againſt adminiſtratrix *actio non accrevit infra ſex annos.*

444. Plea of *ſtatute of frauds* 29. C. 2. c. 3. ſ. 4. (to a declaration in B. R. by *executor*, in conſideration plaintiff's teſtator would withdraw a record in an action of treſpaſs when cauſe was ready for trial, and witneſſes came out of the country, defendant promiſed to pay plaintiff's teſtator fifty pounds, and all coſts to the witneſſes); with note, and caſes.

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41. Plea (after ſpecial demurrer to firſt count) as to all except one pound eleven ſhillings and ſixpence *non aſſumpſit*, tender, and *tout temps priſt*, concludes with a verification.

83. Plea (to declaration for not paying money due on preſuming for aſſurance), that promiſes were made by defendant and one A. B. jointly, and that before exhibiting the bill plaintiffs executed a *releaſe* to A. B.

117. Plea of *ſet off* of a promiſſory note given to plaintiff, and indorſed to defendant.

127. Plea to declaration on *feigned iſſue*, to try bankrupt *vel non.*

160. Plea firſt, general iſſue and *ſet off* of a *judgment* in debt in B. R. to an action in *aſſumpſit.*

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166. Plea of *ſet off* for work and labour done by defendant.
170. Plea, general iſſue, and *ſet off*.

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187. Plea in bar, prior judgment in B. R. for the ſame offence to declaration on 24. Geo. 3. c. 43. for uſing a gun to catch hares; and 2. Geo. 3. expoſing to ſale.
193. Plea of *nil debet* to debt on ſtatutes, *qui tam.*
361. Plea in bar, another action depending for the ſame offence. To an action of debt for non reſidence.
371. Plea, a bill filed in the ſame term by an informer, and judgment in bar. Demurrer and joinder.

(For further pleas in Debt ſee above, and *infra.*)

[Pleaſe to obſerve, that from p. 433 to 448 is by miſtake not indexed at the end of Vol. VII. but in the general Index under the proper heads.]

446. Plea (to declaration to debt on bond, *oyer* of bond and condition, which was, that a marriage being about to be had between plaintiff and one of the daughters of defendant, defendant promiſed to give plaintiff two hundred pounds, or as much as he ſhould give any other of his daughters, which was to be paid by inſtalments, and when paid, the bond to be void), that defendant paid part of the money, and that at the time of ſuing out the writ of plaintiff, the time of payment for the remainder was not to come, and that defendant did not give any other of his daughters more than two hun-
447. dred pounds. Replication, that defendant did not pay, &c.
448. Plea (to declaration in debt on arbitration bond, *oyer* of condition, which was for keeping an award), that the arbitrators made no award. Replication, ſetting forth an award, and aſſigning breach of non-payment of money awarded.

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473. Plea (to declaration in covenant by aſſignees of bankrupt againſt Sun Fire Office, for loſs ſuſtained by bankrupt); firſt, *non eſt factum*; ſecond, that the goods, &c. were not burnt in the ſaid dwelling-houſe in manner and form; third, dwelling houſe fraudulently ſet on fire.

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400. *Poſtea* in covenant, finding ſeveral iſſues; three thouſand pounds damages. *Cur. adv. vult.*; and continuances by *dies datus*.

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32. *Poſtea* in covenant on ſeveral iſſues found, where there had been demurrers to ſome pleas, iſſues on others; jury reſpited; *ni. pri.* after finding the ſeveral iſſues in fact; with damages by reaſon of the reſpective reſidue of certain breaches of covenant, four hundred and ſeventy-two pounds ten ſhillings; coſts forty ſhillings; goes on with finding the iſſues in law; and judgment; coſt of increaſe; mercy.
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Niſi prius record in *replevin* in B. R. for ſeizing cattle on a highway in the city of Coventry. Plea in abatement, property, traverſing its being in the plaintiff. Replication and iſſue. *Venire*. 2d *placita*. *Jurata*, &c. - - *Ibid.* 357

Record of a *judgment* for plaintiff in C. B. in *debt* on bond removed by writ of error to the B. R. and alſo of a judgment on recognizance againſt bail, - - - - *Ibid.* 379, 380

Record in an action of *account*. Memorandum. Declaration by the preſent againſt the late churchwardens. Imparlance. Plea, that they never were choſen churchwardens. *Poſtea* returned upon the back of *niſi prius*. Jurors make default. *Tales* awarded. Verdict, that they were choſen. Judgment as to part for the defendant; and demurrer, - 1. Mod. Ent. 53

Record in an action of *covenant* on articles of copartnerſhip. *Placita*. Writ of error. Return. Declaration for not permitting plaintiff to carry on the trade of the houſe, but hindering

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hindering the plaintiff therefrom, and denying the plaintiff the uſe of the cutting-room; that defendant ſolicited two cuſtomers after the end of the partnerſhip; that they made ſeveral ſuits of clothes, &c. for them; that they did not do to the utmoſt of their power to turn over the partnerſhip trade to one T.; that defendant drew away and prevailed upon people not to employ plaintiff; and kept partnerſhip books from plaintiff; ſeveral other breaches of the ſame nature at ſeveral times; that defendant became indebted to Peter H. in more than the ſum of five pounds; and confeſſed a judgment; upon which a *fi. fa.* was ſued out; ſheriff entered, and took plaintiff's goods in execution. Imparlance. Plea as to the 1ſt breach, and iſſue. Denies 3d breach; tenders an iſſue, and there is a demurrer to that; to 4th breach, that neither he or his wife were ever requeſted; to 5th, that they never drew away cuſtomers, and iſſue; to 6th, 7th, and 8th, plaintiff from time to time might have had inſpection of books; 9th, ſheriff did not enter, &c. Demurrer to the ſeveral pleas in bar to the breaches aſſigned, and joinder. *Cur. adv. vult. Venire* awarded, as well to try the iſſues as to aſſeſs damages, if judgment ſhould be given on the demurrer. *Niſi prius. &c. Poſtea.* 1ſt, 2d, 3d, and 4th iſſues found for plaintiff. Conditional damages found on the demurrer. Judgment for plaintiff for part upon the demurrer, - - - - 2. Mod. Ent. 70

Record of *error* in an action of *debt* on a bottomree-bond; *placita* in the exchequer chamber; the writ of error; the return; *placita* in B. R.; memorandum; declaration; continuances; demurrer; joinder; continuances of the demurrer; judgment; aſſignment of errors, - - *Ibid.* 221

Record of *niſi prius* in an action upon a *ſcire facias* at the ſuit of the adminiſtrator of the recoveror in an action of debt againſt the terre-tenant of the recoveree, now deceaſed, ſtating the *ſcire facias*; the ſuggeſtion of the death of the plaintiff in the judgment; return of the ſheriff, that he had given notice to ſeveral terre-tenants, and a proteſt *in curia* of letters of adminiſtration. PLEA by the terre-tenants, that the recoveree in the judgment had nothing in the lands at the time of the judgment. REPLICATION, that he was ſeiſed in fee, and iſſue. *Jurata; poſtea;* and ſpecial verdict, finding, that before the judgment the recoveree was ſeiſed of the lands, &c. mentioned in the return, which afterwards, and before the judgment, he conveyed by deed to truſtees to uſes; and whether he was or was not ſeiſed at the time of the judgment, the jury find as the court ſhall be of opinion, - - - - - Till. Ent. 398 to 403

Record of entry of *ſcire facias* againſt bail, with the ſheriff's return. Judgment againſt the principal and one of the bail. Plea by the other, that there is no ſuch record. Replication, that there is ſuch record. Final judgment for the plaintiff, *Ibid.* 403 to 405

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Record and entry of a *ſcire facias* againſt the bail on a recognizance on *clauſum fregit* in C. B. *ac etiam* for one hundred pounds on promiſes, ſtates the recognizance of bail in C. B.; the recovery of judgment by the plaintiff in the action; and the removal of the record into B. R.; and that the ſame there remained; award of *ſcire facias*. Return and *alias*. Default of the principal, and appearance of the bail. Sheriff's return of *nihil* as to the principal. Judgment againſt the principal; and prayer of execution againſt bail; they pray *oyer* of the *ſcire facias*, which ſet out, and *oyer* of the recognizance which is ſet out, together with the *clauſum fregit* and *ac etiam*; and of the original writ; and of the judgment againſt principal, which are likewiſe ſet out, which appear to be in *aſſumpſit* on a promiſſory note; and for goods ſold and delivered. To which the defendant *pleads*, that he delivered five hogſheads of tobacco in ſatisfaction, which plaintiff accepted. REPLICATION, that the defendant did not deliver in ſatisfaction. Demurrer and joinder. *Cur. adv. vult.*; and judgment for the plaintiff, that the replication is good. Writ of inquiry awarded. Sheriff's return. Final judgment for plaintiff. To WHICH defendants plead, that no judgment was obtained againſt the principal before the iſſuing of the *ſcire facias*. Replication, that judgment was given. Special demurrer, with cauſes; and joinder, - - - - *Ibid.* 406 to 411

Niſi prius record in B. R. in debt on bond, *non eſt factum* pleaded, - - - - - *Ibid.* 185

Record of *niſi prius* on a writ of error on a judgment in *dower*, on a verdict for demandant, - - *Ibid.* 227. 269

Record in an action of *treſpaſs on the caſe* for maliciouſly charging plaintiff with diſobedience of orders, as captain of a man of war; for laying him under an arreſt, and confining him an unreaſonable time, without bringing him to a court martial, and afterwards bringing him to a court martial, at which he was honourably acquitted; plaintiff charged with diſobedience of orders; putting him under an arreſt, and impriſoning him for the ſame; ſuſpending him; ſent him under an arreſt to the Eaſt Indies and Great Britain to be tried by court martial; brought him to trial, whereupon he was honourably acquitted. Several counts. Special damages. Plea, general iſſue, not guilty. Award of *venire*. Sheriffs have not ſent the writ. Further award of *venire*. 2d default. Further award. Sheriffs return the writ. Jurors make default. Award of *diſtringas*. *Niſi prius*. Return of *poſtea*. *Tales*. Verdict for plaintiff. Damages, ſix thouſand pounds. *Dies datus* till Eaſter and to Trinity. Judgment for plaintiff for ſix thouſand pounds. Coſts, eight hundred and eleven pounds, one ſhilling, and tenpence. Afterwards reverſed, - - - 1. T. R. 493 to 550

Record of an action of *aſſumpſit* to recover back monies paid for cuſtoms and duties unlawfully impoſed upon the dead commodities

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commodities the growth of the iſland of Grenada, ſhipped off therefrom. Imparlance. Plea, general iſſue. *Jurata. Dies datus.* Reſpite *niſi prius. Poſtea. Tales.* Special verdict, - - - - - Loffi's Rep. 655

Record of an *indictment* for not repairing a houſe adjoining to a bridge in Lynn which defendant was bound to repair *rationè tenuræ.* Indictment removed into B. R. Plea, not guilty. *Venire* awarded. Sheriff *non miſit breve.* Return of the *venire. Diſtringas* awarded. *Niſi prius* at Norwich. *Poſtea. Tales.* Juror withdrawn, and trial put off. *Decem tales* awarded. Sheriff *non miſit breve. Niſi prius* at Thetford. Second *decem tales.* Death of the king. Writ of adjournment. Third *decem tales. Niſi prius* at N. Fourth *decem tales. Poſtea. Tales.* Special verdict, 3. Ld. Ray. N. Ed. 18 to 25

Record in *trover.* Declaration for cattle, goods, and chattels. Imparlance. Not guilty pleaded. *Poſtea. Tales de circumſtantibus.* Special verdict. Seiſin in fee, and demiſe by indenture. Leſſee entered, and was poſſeſſed. Rent in arrear, and defendant, by order of the landlord's bailiff, the landlord being ſick, diſtrained for rent arrear, *Ibid.* 75

Record *in ejectment.* Count. Plea, not guilty. *Niſi prius. Poſtea.* Special verdict, - - - *Ibid.* 99

Record in *treſpaſs* for taking a negro ſlave. Plea, not guilty. *Niſi prius. Poſtea. Tales de circumſtantibus.* Special verdict, - - - - - - *Ibid.* 129

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Niſi prius record by bill in B. R. and in C. B. againſt indifferent perſons not privileged, - - - 1. Cromp. Pr. 233

Record where the iſſue and trial are of different terms. *Placita.* Second *placita. Jurata* for London. For Middleſex. For the aſſizes, - - - - Imp. B. R. 360

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252. Rejoinder (to replication that defendant permitted the eſcape, traverſing the negligence), taking iſſue on the traverſe.
292. 322. Rejoinder, taking iſſue on the traverſe.
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G. L. and that it was prior to and without the knowledge of plaintiff. Surrejoinder, that writs iſſuing in vacation are teſted as of the laſt day of the preceding term; but though G. L.'s writ was ſo teſted, it was in fact ſued out afterwards, and after plaintiff's. Demurrer. Joinder. Judgment of *reſpondeas ouſter*.

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327. Replication to plea of *non accrevit infra ſex annos*, that after the ſaid cauſes of action accrued defendant was in foreign parts *trans mare* until he returned in 1780, and that plaintiffs within ſix years after his return exhibited their bill.

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537. Replication (to plea of tender), subsequent demand, and refusal. Rejoinder, with note.

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298. *Fi. ſa.* in action by bill in *aſſumpſit* againſt the goods of a perſon who had been in cuſtody under a *ca. ſa.* and diſcharged under the Inſolvent Debtor's Act in Lancaſter.

304. *Ca. ſa.* in *aſſumpſit* againſt an attorney after judgment ſigned in C. B.

305. *Ca. ſa.* in *aſſumpſit*, and *teſtatum.*

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311. *Teſtatum ca. ſa.* againſt bail from Middleſex to Lancaſter after a *fi. ſa.* in Middleſex and *teſt. fi. ſa.* into Lancaſter, and *ca. ſa.* into Middleſex in B. R. in debt.

312. *Ca. ſa.* againſt bail after pleading to the *ſci. fa.*

340. *Levari facias* againſt bail on judgment on *ſci. fa.* after plea, and for coſts after *fi. ſa.*

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345. *Teſtatum fi. fa.* againſt bail from Middleſex to Lancaſter in B. R.

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290. In B. R.

290. *Teſt. fi. fa.* in debt in C. B.

292. *Fi. fa* for the reſidue of a debt after part was levied, and paid plaintiff on a former writ in B. R.

297. *Ca. ſa.* on a judgment in debt on ſtatute for killin game.

305. *Teſt. ca. ſa.* in debt.

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240. Writ *de inquirendo* in dower.
161. Writ of *habere facias ſeiſinam* on judgment, where *poſtea* found huſband died ſeiſed of part of premiſes demanded, with opinion and caſes.
162. Writ of ſeiſin in dower.
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49. Writ of poſſeſſion in ejectment for the *term* recovered, and *ca. ſa.* for coſts.
261. Writ of poſſeſſion in ejectment in C. B.
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308. *Ca. ſa.* on a nonſuit on a writ of error in the exchequer on a judgment by bill in B. R. in *aſſumpſit*.
310. *Ca. ſa.* on a judgment affirmed in exchequer after a writ of error, the judgment being by *bill* in B. R. in *aſſumpſit*.
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319. *Teſtatum ca. ſa.* by *adminiſtrators* after plea to *ſcire facias* and *judgment* thereon in C. B.

321. *Fi. ſa.* againſt adminiſtratrix upon judgment entered upon *mutuatus* confeſſed by warrant of attorney in C.B.

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349. *Teſtatum fieri facias* at the ſuit of executors out of Yorkſhire into Lancaſhire on a nonſuit.

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415. *Fieri facias de bonis teſtatoris*, and ſheriffs' return of *devaſtavit* againſt an executrix, with notes.

283. *Capias ſatisfaciendum* after *fieri facias* and *nulla bona* returned in *aſſumpſit* at ſuit of adminiſtratrix and her huſband.

283. Againſt adminiſtratrix in debt after *fieri facias* returned *nulla bona* for damages *de bonis propriis* in debt.

306. *Teſtatum capias ſatisfaciendum* at the ſuit of executor of *executrix* in C. B.

306. *Teſtatum capias ſatisfaciendum* in *aſſumpſit* after a *fieri facias* againſt an executrix, and *nulla bona devaſtavit* returned in C. B.

307. *Teſtatum capias ſatisfaciendum* againſt an executrix after preceding *capias ſatisfaciendum* returned *non eſt inventus*.

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157. Writ of execution on a judgment againſt bail in replevin *de bonis propriis* on default of appearance after ſheriffs' return of *ſcire feci*, to ſhew why their principal having eloigned the goods replevied to him, their own goods ſhould not be taken in lieu thereof. Very ſpecial, with notes and caſes.
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315. *Teſtatum capias ſatisfaciendum* after *fieri facias* and part levied, and *nulla bona* to reſidue in *caſe*.
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264. *Fieri facias* in an action of *tort* for *words*.
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274. *Fieri facias* in *trover* into a county palatine by adminiſtrator in B. R.

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309. *Teſtatum capias ſatisfaciendum* from London to the county palatine of Lancaſter upon a nonſuit in *treſpaſs* for not proceeding to trial according to ſtatute in C. B.
323. *Fieri facias* in treſpaſs and aſſault in B. R.
272. *Fieri facias* in treſpaſs upon *non proſ.* for not declaring.
281. *Capias ſatisfaciendum* in treſpaſs and aſſault.
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249. Writ of *fieri facias* in caſe upon a nonſuit in C. B.
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263. *Teſtatum fieri facias* in B. R.
265. *Teſtatum capias* into a county palatine.
268. *Elegit*, writ of, and obſervations thereon. Very full notes and caſes.
270. Exigent, writ of, with notes.
270. *Executione judicii* (to inferior courts), to the mayor, &c. of village of Preſton.
271. Upon a writ of *falſe* judgment.
271. *Executione judicii* to the *wapentake* of Weſt Derby.
271. *Fieri facias*, writs of.

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273. *Fi. fa.* after a writ of false judgment, the judgment being affirmed.
281. *Ca. ad fa.* in C. B. at Lancaster in a variety of cases for defendant on a *nonsuit* for not joining in an issue in a *qui tam* action.
281. *Ca. ad fa.*
281. *Ca. ad fa.* for defendant on *non pros.* for want of a declaration.
284. *Ca. fa.* after *fi. fa.* when sheriff had levied part and returned *nil habet* for the residue, with notes.
285. *Ca. utlagatum* in C. B. at Lancaster, and *non omittas* writ *de inquirendo*, with notes.
287. *Fi. fa.* on a *non pros. for want of a replication.*
289. *Fi. fa.* into a county palatine in *debt.*
289. *Fi. fa.* on a *non pros.* in *trespass* or *tort.*
290. *Ca. fa.* against plaintiff *for not prosecuting* his action in B. R. in *trespass.*
293. *Ca fa.* to the sheriff of Yorkshire *to levy the residue* in an action of *debt* after *fi. fa.* to him directed, and return that he had caused part to be levied *by the chief bailiff of the liberty of Pontefract* in his county, to whom the full execution of such process belonged.
295. *Test. fi. fa.* out of Middlesex into Lancaster, *grounded upon the return of a former test. fi. fa.* out of Middlesex into Lancaster.
301. *Ca. fa.* on a nonsuit in C. B. in trespass.
301. *Ca. fa.* on a *non pros.* in B. R. into Lancaster.
301. *Ca. fa.* after a nonsuit on a *writ of error* on a judgment in B. R. by original.
302. *Ca. fa.* in debt on judgment entered up *by warrant of attorney* in B R.
302. *Ca. fa. on a verdict* for plaintiff *in assumpsit* in B. R.
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304. *Ca. fa. in assumpsit* against defendant in order to make bail liable in C. B.
304. *Ca. fa.* on a *non pros.* for *not entering the issue* by original in C. B. in *tort.*
308. *Ca. fa.* on a judgment of nonsuit for not proceeding to trial in C. B.
308. *Ca. fa.* on a *non pros.* for want of replying to plaintiff's plea in B. R.
308. *Ca. fa.* for the residue, where part had been levied by a *fi. fa.* in C. B.
321. *Fi. fa.* on a nonsuit in C. B.
324. *Fi. fa. against the hundred* on the statute of *hue and cry* in B. R.
324. *Fi. fa.* for want of replying to plaintiff's plea in B. R.
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351.	*Fi. fa.* on a nonſuit in B. R.	
351.	*Fi. fa.* on a judgment of nonſuit in B. R.	
352.	*Fi. fa.* on a judgment of *non proſ.* in B. R.	
353. 354.	*Fi. fa. de bonis eccleſiaſticis* into county palatine of Lancaſter, and the chancellor return with ſchedule by ſheriff annexed.	
346.	*Teſtatum fi. fa.* in B. R. *de bonis eccleſiaſticis* to the biſhop of Worceſter in order to ſequeſtrate defendant's living.	
233.	Special *ca. ad ſa.* into a county palatine for the reſidue of defendant's debt after *fi. fa.* returned.	
235.	*Teſtatum ca. ſa.* (either debt or caſe). *This is only the ſkeleton of the writ*, ſee *the common ca. ſa. ante.*	
235.	*Teſtatum* into a county palatine.	
235.	*Teſtatum fi. fa.*	
235.	*Teſtatum fi. fa.* out of a county palatine.	
236.	*Teſtatum capias* in the king's bench, with practical directions for ſuch writs, and *ſee* common *ca. ſa. ante.*	
237.	*Ca. ſa.* in *ejectment* for coſts and damages.	
237.	*Ca. ſa.* in *ejectment* into a county palatine.	
237.	*Ca. ſa.* for the reſidue after part had been levied under a *fi. fa.*	
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Declaration in debt on articles of agreement for not completely finiſhing and making fit for habitation a meſſuage or dwelling-houſe.

GEORGE the Third, &c. to the ſheriffs of London, greeting: Whereas John Chuttle lately in our court before us at Weſtminſter, by bill, without our writ, impleaded William Robinſon, being in the cuſtody of the marſhal of our Marſhalſea, before us in a plea that he ſhould render to him the ſaid John the ſum of five hundred and fifty pounds of lawful money of Great Britain, which he owed to and unjuſtly detained from him; for that whereas theretofore, to wit, on the twelfth day of April, in the year of Our Lord 1790, at, &c. by certain articles of agreement indented, made, concluded, and agreed upon the day and year aforeſaid, between the ſaid William by the name of, &c. of the one part, and the ſaid John by the name of, &c. of the other part, which ſaid articles of agreement, ſealed with the reſpective ſeals of the ſaid John and William, the ſaid John brought into court there, the date whereof was the day and year aforeſaid, reciting, amongſt other things, that the ſaid William had concluded and agreed with the committee for letting the lands and tenements of the city of London for a leaſe of the ground therein and hereinafter-mentioned (amongſt others) to be granted by the mayor and commonalty and citizens of the ſaid city to the ſaid William, his executor or adminiſtrator, for ſixty-one years, from the twenty-ninth day of September then laſt paſt, at a pepper corn rent for the firſt year, and under ſuch a yearly ground rent for the reſidue of the term, and under and ſubject to ſuch conditions and agreements as in the ſaid contract or agreement were particularly mentioned, and that the ſaid William had at his own coſts and charges erected the brickwork or carcaſe of a meſſuage or tenement upon the ground therein and hereinafter-mentioned for the conſiderations in the ſaid articles of agreement particularly mentioned, he the ſaid William had let unto the ſaid John all that piece or parcel of ground, with the ſaid carcaſe or brickwork of a meſſuage or tenement then lately erected by him the ſaid William thereon, and intended for a tavern or coffee-houſe, ſituate, lying, and being as in the laſt-mentioned articles of agreement was particularly mentioned and deſcribed, to hold the ſaid ground and buildings thereby let as aforeſaid, with the appurtenances, unto the ſaid John, his executors, adminiſtrators, and aſſigns, from the day of the date of the ſaid articles of agreement at the rate of one pepper corn until the twenty-fourth day of June then next enſuing, and from thenceforth at and under the yearly rent of fifty-two pounds ten ſhillings, to be payable as in the ſaid articles of agreement was particularly mentioned and deſcribed; and the ſaid William for himſelf, his executors, adminiſtrators, and aſſigns, had covenanted, promiſed, and agreed to and with the ſaid John, his executors, adminiſtrators, and aſſigns, by the ſaid articles of agreement, that he the ſaid William, his executors, and adminiſtrators, ſhould and would at his and their own coſts and charges completely finiſh and make fit for habitation the ſaid meſſuage or tenement agreeable to the order and approbation of the committee for letting the lands and tenements of the city of

(a) See p. cxxxv. ante.

London and the clerk of the works of the ſaid city for the time being, and in all reſpects conformable to the conditions of the ſaid original contract, and ſhould and would deliver the poſſeſſion of the ſaid meſſuage or tenement ſo finiſhed and completed as aforeſaid unto the ſaid John, his executors, adminiſtrators, or aſſigns, on or before the twenty-fourth day of June next enſuing the date of the ſaid articles of agrrement; and that for the true performance of all and ſingular the covenants and agreements thereinbefore contained, and each and every of them, according to the true intent and meaning of the ſaid articles of agreement, each of the ſaid parties thereto had bound himſelf, his executors, or adminiſtrators, unto the other of them his executors and adminiſtrators in the penal ſum of five hundred pounds of lawful money of Great Britain, firmly by the ſaid articles of agreement, reference being thereunto had, would amongſt other things more fully and at large appear: And the ſaid John in fact further ſaid, that although he the ſaid John from the time of making the ſaid articles of agreement hitherto had well and truly performed and fulfilled every thing therein contained on his part and behalf to be performed and fulfilled according to the true intent and meaning of the ſaid articles of agreement; yet proteſting that the ſaid William had not performed or fulfilled any thing in the ſaid articles of agreement contained on his part and behalf to be performed and fulfilled, the ſaid John in fact further ſaid, that the ſaid William had not at his own coſts and charges completely finiſhed and made fit for habitation the ſaid meſſuage or tenement agreeable to the order and approbation of the ſaid committee for letting the lands and tenements of the ſaid city of London and the ſaid clerk of the works of the ſaid city for the time being, and in all reſpects conformable to the conditions of the ſaid original contract on or before the twenty-fourth day of June next enſuing, the date of the ſaid articles of agreement, according to the tenor and effect, true intent and meaning of the ſaid articles of agreement, but on the contrary that the ſaid John ſaid that always from the time of making the ſaid articles of agreement until the twenty-fourth day of June, and from thence hitherto, the ſaid William had wholly omitted and neglected to completely or in any other manner finiſh and make fit for habitation the ſaid meſſuage or tenement according to the tenor and effect of the ſaid articles of agreement, and the ſaid meſſuage or tenement during all the time aforeſaid had been, and then was unfiniſhed and out of repair in many and different parts thereof, to wit, in the roof, doors, door caſes, ſtairs, ſtair caſes, and windows, window caſes, chimnies, chimney pieces, floors, ſhutters, cloſets, cupboards, locks, and bolts thereof, contrary to the tenor and effect, true intent and meaning of the ſaid articles of agreement, and of the covenant of the ſaid William therein contained, and in breach and violation thereof, and whereby he the ſaid John had loſt and been deprived of the uſe of the ſaid meſſuage or dwelling-houſe for a long time, to wit, for the ſpace of four months, and of all benefit

benefit and advantage which would otherwiſe have ariſen and accrued to him from the ſame, to wit, at, &c. aforeſaid, whereby and according to the tenor and effect of the ſaid articles of agreement the ſaid William had forfeited and became liable to pay to the ſaid John the ſum of five hundred pounds in the ſaid articles of agreement mentioned, and thereby and by reaſon of the ſaid articles of agreement an action had accrued to the ſaid John to demand and have of and from the ſaid William the ſum of five hundred pounds, parcel of the ſaid ſum of five hundred and fifty pounds therein above demanded: And that whereas, &c. &c. [Count for a *mutuatus*]; yet the ſaid William, although often requeſted, had not then rendered the ſaid ſum of five hundred and fifty pounds above demanded, or any part thereof, to the ſaid John, but he ſo to do hath hitherto wholly refuſed, and then refuſed ſo to do, to the damage of the ſaid John of twenty pounds; and therefore he brought his ſuit, &c.; and ſuch proceedings were thereupon had in our ſaid court before that the ſaid John afterwards recovered againſt the ſaid William his debt aforeſaid, and alſo twenty pounds for his damages which he had ſuſtained as well by reaſon of detaining the ſaid debt as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid William is convicted, as appears to us of record; and the ſaid John having prayed our writ to enquire of the truth of the ſaid breach of covenant above aſſigned, and to aſſeſs the damages which he the ſaid John hath ſuſtained thereby, therefore according to the form of the ſtatute in ſuch caſe made and provided we command you that you cauſe to come before the right honourable Lloyd lord Kenyon, our chief juſtice aſſigned to hold pleas in our court before us at the Guildhall of the city of London, on Wedneſday the firſt day of October next, twelve honeſt and lawful men of your bailiwick, to enquire diligently on their oath of the truth of the premiſes, and to aſſeſs what damages the ſaid John hath ſuſtained by reaſon of the ſaid breach of covenant, and that you have on that day before our ſaid chief juſtice this writ; we likewiſe command our ſaid chief juſtice that he certify the inquiſition before him taken to us at Weſtminſter on Monday next after eight days of St. Hilary, together with the names of thoſe by whoſe oath that inquiſition ſhall be taken; and that he have there this writ. Witneſs Lloyd lord Kenyon, at Weſtminſter, the twenty-ninth day of November, in the thirty-firſt year of our reign.

STORMONT AND WAY.

Drawn by Mr. TIDD.

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1. 2. *And.*	Anderſon's Reports.
Aſh.	Aſhton's Precedents. (*For* Aſton *read* Aſhton.)
Aſſ.	Book of Aſſizes.
Bailey on Bills of Exchange	
Bl. Rep.	Blackſtone's Reports.
1, 2. *H. Bl.*	Reports in C. B. by Mr. Henry Blackſtone.
1, 2, 3. *Br.*	Brownlow's Precedents.
1, 2. *Br.*	Brownlow's Reports.
Br. Red.	Brownlow's Redivivus.
Br. V. M.	Brown's Vade Mecum.
1. *Bro.*	Brown's Entries.
Bro. Meth.	Brown's Methodus Noviſſima.
Bull. N. P.	Buller's Niſi Prius.
1, 2, 3. *Burr.*	Burrow's Reports.
C. C. A.	Crown Circuit Aſſiſtant.
Cl. Aſſ.	Clerk's Aſſiſtant.
Cl. Man.	Clerk's Manual.
Clift.	Clift's Entries.
2. *Cl. Engliſh Tutor*	
Co.	Coke's Reports.
Co. Ent.	Coke's Entries.
Co. Poſtna.	Coke's Poſtnati.
Com.	Comyn's Reports.
Cowp.	Cowper's Reports.
1, 2, *and* 3. *Cro.*	Croke's Reports.
Cromp. Pr.	Crompton's Practice.
Dav.	Davis's Reports.
Dig.	Digeſt of Writs.
Doug.	Douglas's Reports.
Dy.	Dyer's Reports, late edition by Mr. Vailliant.
Fin.	Finche's Law.
F. N. B. R.	Fitzherbert's Natura Brevium.
Gilb. Act. Debt.	Gilbert's Action of Debt.
Gilb. Diſt. and Rep.	Gilbert on Diſtreſſes and Replevin, by Mr. Hunt.

Han.	Hanſard's Entries.
Her.	Herne's Precedents.
Hob.	Hobart's Reports.
Holt.	Holt's Reports.
Imp. B. R. and C. B.	Impey's Practice of King's Bench and Common Pleas.
1, 2, 3, 4. *Inſt.*	Coke's Inſtitutes.
1, 2, 3. *Inſt. Cl.*	Inſtructor's Clericalis.
Keil.	Keilway's Reports.
Kitch.	Kitchin.
Kyd's Tr.	Kyd's Treatiſe on Bills of Exchange.
Law. Err.	Law of Errors.
Leg. Flu.	Legum Fluvius.
1, 2, 3. *Lev. Rep.*	Levinz Reports.
Lev. Ent.	Levinz Entries.
1. 2. *Lill. Ent. and Lill.*	Lilly's Entries.
Long. 5. E. 4.	
1, 2. *Lut.*	Lutwyche's Entries.
Mar.	March on Arbitraments.
Mod. Ca.	Modern Caſes.
1, 2. *Mod. Ent.*	Modern Entries.
1, 2. *Mo. Int.*	Modus Intrandi. (In the INDEX theſe are in a few inſtances referred to the *one* for the *other*, then vide.)
Mod. Pl.	Impey's Modern Pleader.
Mo. or Moile	Moile's Precedents of Writs.
Moo. or Moore	Moore's Reports.
Morg. Pr.	Morgan's Precedents.
1, 2. *Narr.*	Old Declarations—Year Books.
Noy.	Noy's Reports.
Off. Br.	Officina Brevium.
Park on Inſurances	
Pl. Aſſ.	Pleader's Aſſiſtant.
Pl. Gen.	Placita Generalia.
Plo.	Plowden's Commentaries.
Priv. Lon.	Privileges of London.
1, 2, 3. *Lord. Raym.*	Lord Raymond's Reports, old and new edition by Mr. Bailey.
Ra. and Ra. Ent.	Raſtall's Entries.
Re Dec.	Read's Declarations.
Reg.	Regiſter of *Original* Writs.
Reg. Jud.	Regiſter of *Judicial* Writs.
Reg. Pla.	Regula Placitandi.
1, 2. *R. P. B. R.*	Richardſon's Practice.
1, 2. *R. P. C. B.*	King's Bench and Common Pleas.
Rob. Ent. or Rob.	Robinſon's Entries.
Run. Eject.	Treatiſe on Ejectment by Mr. Serjeant Runnington.
1. 2, *Salk*	Salkeld's Reports.
1, 2. *San.*	Saunders's Reports.

1, 2. *Show.*	Shower's Reports.
1, 2. *Stra.*	Strange's Reports, late edition by Mr. Nowlan.
Thes. Br.	Thesaurus Brevium.
Tho.	Thompson's Entries.
1, 2. *T. R.*	Term Reports.
Tidd.	Practice in Court of King's Bench by Mr. Tidd.
1, 2. *Townsf. Jud.*	Townsend's Judgments.
Tre. Tro.	Treatise on Trover.
Vent.	Ventris's Reports.
Vet. Int.	An Old Book of Entries.
Vet. N. B. R.	The Old Natura Brevium.
Vid.	Vidian's Entries.
Went. Off. Ex.	Wentworth's Office of an Executor.
1, 2. *Wilf.*	Wilson's Reports.
Wilk.	Wilkinson on Office of Sheriff.
Wi. or Win.	Winch's Entries.
Wood. Lec.	Woodeson's Lectures.
Up. Ben. Pr.	Upper Bench Precedents in the time of the Usurpation in Car. 1.
Yel.	Yelverton's Reports,

FINIS.

MVSEVM
BRITANNICVM